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The Nation

October 6, 1979 $1

EDITORIAL

THE F.B.I. UNDER LAW

In December of last year *The Nation* ran a front-page story on the F.B.I.'s scandalous anonymous letter-writing campaign (William M. Kunstler, "Writers of the Purple Page," December 30). In passing, Kunstler quoted the reference by Senator Frank Church's committee on intelligence to a letter about "an actress's pregnancy by a Black Panther" which "was sent to a gossip columnist." Now, of course, everybody knows that the actress was Jean Seberg, the tale a concoction, the end result a suicide. Last week we ran an obituary of Stanley Levison, the quiet civil rights hero who for a brief period became anathema in the movement. Now we know his reputation was mugged in J. Edgar Hoover's effort to destroy Martin Luther King Jr.

To do full justice to the injustices inflicted by our intelligence agencies on the citizenry would require our devoting the entire magazine to them on a weekly basis, and even then we would barely have room for an index of abuses, a catalogue of COINTELPRO atrocities, a list of censored and denied Freedom of Information Act requests. That is why we take with extreme seriousness the effort, however belated (it is three years since the Church committee's report), to legislate a comprehensive and enforceable charter for the Bureau.

Like last year's debate within the liberal community over proposals to revise the criminal code, the issue is how to guarantee our liberties while preserving our order. A difference is that the cost of postponing criminal code revision is untidiness. The cost of further postponing the governance of our secret police may be higher than an open society ought to bear. On pages 294 through 301 inside, ten distinguished authorities, many of them frequent contributors, begin what we believe to be a critical dialogue. We invite our readers to join it.

THE F.B.I. CHARTER

☆ ☆ ☆

John Shattuck
Jerry J. Berman
Morton H. Halperin
Ramsey Clark
Thomas Emerson
Sanford Ungar
Mae Churchill
Aryeh Neier
William Preston
Peter Steinberg

HUSSEIN'S GAME
Milton Viorst

GARP ACCORDING TO GILMAN

BIDDING FOR BUSINESS

THE SUBSIDY SNOWBALL

3

RALPH NADER and JERRY JACOBS

General Motors chairman Thomas Murphy, lashing out against Federal assistance for the Chrysler Corporation, demanded that public subsidies not be used to thwart the workings of the free market by keeping an ailing firm afloat. But when it comes to the subsidies that state and local governments lavish on many of the nation's largest and most profitable firms—including G.M.—Murphy puts his Adam Smith back on the shelf and holds out his hand like all the rest.

Faced with an uncertain national economic outlook, states, cities and towns are competing to obtain a larger share of the country's industry and jobs by offering a growing variety of "incentives"—more accurately called subsidies—to lure new businesses and to encourage expansion of local firms. Prospective employers are offered elaborate packages which can include assistance in site selection, free land, sewerage, even a highway or rail spur, a tax abatement, low-interest loans or tax-free financing, and aid in training new employees—all paid for by the taxpayer. Although proponents of these industrial-development programs justify them as assisting small local firms to expand and provide new jobs, it is the *Fortune* 500 corporations who mop up the lion's share of the gravy.

One favored subsidy device is tax-free financing, which enables companies to use municipalities' tax-free borrowing authority for industrial development or pollution control. Advocates of this method say that it helps fledgling firms that lack venture capital or marginal firms faced with installing high-cost pollution-control equipment. Yet a recent study of state economic development activities by the Public Interest Research

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LETTERS.

FALSE SYMMETRIES

New York City

We are the other members of the group that traveled with Ramsey Clark and Max Holland to Lebanon; two of us (Dave Dellinger and Fred Jameson) also visited Israel and the West Bank with Max Holland. We were shocked by the extent of Israeli destruction of civilian life and property in southern Lebanon, and saddened by the fact that it was out of proportion to Palestinian violence in the occupied territories and Israel, and bore little relationship to P.L.O. and Lebanese military presences in southern Lebanon.

To be sure, as a diverse group with varying experience and interests in the Middle East, we analyzed what we witnessed from different perspectives. All of us have special feelings for the Jewish community and experienced conflicting and painful emotions. Yet, when we last met, before leaving Lebanon, to discuss a collective press conference in New York, we were surprised by the extent of agreement among us; it was Max Holland who noted this fact, contrasting it to his experience with an earlier delegation to the Middle East. At that time there was never any question of what we had and had not seen; the reality we saw was too stark to be viewed two ways.

We can appreciate Max Holland's differences with Ramsey Clark [Letters, *The Nation*, Sept. 29], but we are painfully surprised by his unjust allegation that Clark has given an inaccurate picture of what we all saw. The thousands of victims of Israel's relentless bombings and shellings have been almost entirely civilians. As Clark noted, we did see able-bodied men in South Lebanon and soldiers with "automatic rifles, machine guns, cars and jeeps." But we found no evidence to substantiate Israeli claims that they bomb the civilian areas because, as Ambassador Yehuda Blum puts it, "The P.L.O. deliberately locates its bases in refugee camps, civilian towns and villages." Dr. Gert Anderson, the Swedish physician we spoke with in the frequently bombed and nearly empty Rashidiyya refugee camp, as well as other foreign observers in Lebanon, denied any knowledge of military "bases" or meaningful military targets in civilian areas. Without some concrete evidence of significant P.L.O. military "bases" among a civilian population, we cannot in good conscience accept as "truth" an allegation that Israel uses to justify its bombing of civilian areas. Ironically, Max Holland's castigation of Ambassador Blum for ignoring the "hundreds of thousands of Lebanese and Palestinian civilians who flee rather than bear the brunt of Israeli firepower" loses meaning when he accepts Israel's unsubstantiated justification for these bombings as the "truth."

As for the use of language, we agree on the need to avoid hyperbole. But Ramsey Clark did not call the Israeli raids "genocidal." He described southern Lebanon as "devastated" by the raids, and we feel this is accurate. He also said that Prime Minister Begin's justification for the strikes against civilians had "genocidal" implications, and again we agree.

We share Max Holland's hope that we can help forge meaningful positions which progressive Palestinians and Israelis can share with us. As he says, this requires avoiding "absolutes" on both sides in a tragic conflict between kindred peoples. But the alternative to absolutes is not the establishment of false symmetries between the occupier and the occupied, between Ramsey Clark's appeal for an end to the use of U.S. munitions to kill innocents and Ambassador Blum's defense of Israeli terrorism in Lebanon.

Eqbal Ahmad
Dave Dellinger
Fred Jameson
Don Luce

INDICTMENT DENIED

New York City

I am sorry that my good friend and comrade Doug Ireland included me in his indictment of those on the left who have been silent or hostile about the gay issue ["Open Season on Gays," *The Nation*, Sept. 15]. It is certainly inaccurate and unfair to link me with those liberals who believe that gays ought to be "kept in their closets." The Democratic Socialist Organizing Committee, the organization that I head, has always used my "out of the closet" phrase for *Socialists*, a choice of words that certainly shows sympathy with the feelings of gays.

As for his specific indictment: at the Memphis Midterm Conference, I was acting as a spokesperson for a Democratic Agenda coalition whose policies had been set ten months earlier, and whose agreement was focused on a series of economic issues. At the last minute, after we had successfully petitioned our own issues onto the floor in the preconvention period, I was asked to support the gay efforts at the convention. I explained that I was present in a representative capacity and that, at a minimum, I would have to consult the principal Democratic Agenda initiators in Memphis if I were to make such a commitment. I stated that I was willing to do so but frankly doubted that they would change our long-established program.

The February Houston convention of the D.S.O.C. adopted a position in support of gay rights by a unanimous vote. We endorsed the October 14th March for Gay and Lesbian Rights, and circulated a letter to our entire leadership urging their participation. At the end of this month, I will be appearing at a fund-raiser for Harry Britt, a member of D.S.O.C. and the gay activist who succeeded Harvey Milk on the San Francisco City Council.

Finally, I agree with Doug that there is a reactionary thrust against homosexual rights and that some liberals and leftists have not responded properly. I want to help bring that issue into the coalition of the democratic left in the most effective way. I hope that Doug will continue his work in the gay community to bring that community into the progressive movement (there are, after all, conservative forces in the gay movement as well). I hope that Doug and I will continue to work together in these broad coalitions, as we so often have in the past.

Michael Harrington

SELF-DESTRUCTING SENATOR

New York City

It might well be an exercise in conspicuous newsprint waste for *The Nation* to devote nearly an entire issue [Sept. 22] to the conning-&-going (the verbal overkill) of the junior U.S. Senator from New York: Moynihan. It seems to this reader that it's a big gamble this kind of Festschrift packaging will outlast even by a week the element of self-destruct in the junior Senator's speeches, fulminations, and plain-&-fancy *kibitzing*.

Sidney Bernard
The Newsletter

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EDITORIALS.

Nuclear Populism

The New York Times of September 24 carried on its front page a story about the multitude of post-mortem inquiries into the Three Mile Island nuclear reactor accident. In the same issue of *The Times*, the report on an anti-nuclear rally at New York's Battery Park City site that was held the previous day and was attended by more than 200,000 people was relegated to the Metropolitan section. *The Times* had its priorities wrong; the nuclear rally was a story of national, not metropolitan implications—which the network news shows, at least, recognized by the prominence they gave it. Thus do public events cast confusing shadows on the media cave walls.

What was typical about *The Times*'s editorial decision that official inquiries by experts and agencies of government were more important than the record-attendance protest, was its assumption that change moves only from the top down, never from the bottom up. That elitist outlook misses the important fact that the anti-nuke movement is helping shift this country's thinking away from a financially onerous technology of death and toward the promise of alternate energy sources.

A television anchorperson mentioned that a committee of pro-nuclear-power scientists had issued a statement to counter the Battery Park City rally. Their action only served to remind us of the monopoly on nuclear decision making the government, the power industry and the technocrats once had—a monopoly that rallies such as the one in New York on September 23 are being held to challenge. In his speech at that rally, Ralph Nader (who is represented in this issue with a report, written with Jerry Jacobs, on local governments' expensive campaigns to woo big business) pointed to the polls showing that a majority of Americans don't want a nuclear reactor near where they live. In *The Times*'s front-page story, there was further evidence, if it is needed, that

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the nuclear-power issue is too important to be left to the experts. Public utility stockholders and customers are mutually reluctant to bear the costs of accidents such as that in Pennsylvania, points out Senator Gary Hart, meaning that banks will be reluctant to lend money to build new plants. Representative Morris Udall was cited on the impossibility of proceeding with new nuclear plants in view of public opposition to shuttling shipments of radioactive fuel around the nation and to nuclear waste disposal.

In other words, nuclear-power policy is subject to the ratification of people in all walks of life, not the experts, whose earlier assurances that it was riskless were belied by the Three Mile Island accident. As Aristotle observed long ago, the best judge of whether the shoe fits is not the shoemaker; it is the person who wears it. The people are the ultimate experts, and as the crowd at the Battery Park City site showed, their voice is growing louder.

Nonbook Awards

In its thirty years of life the National Book Awards became the pre-eminent literary awards in the United States. They had their rivals, of course—most recently the National Book Critics Circle Awards—and not all their choices were universally acclaimed. Financial problems drove them into the stuffy embrace of the National Institute of Arts and Letters, then they ricocheted back to the Association of American Publishers. Now, that last group has announced its plans to transmogrify them once again. This time the result is a victory for the large book chains, conglomerates, publicists and Hollywood-oriented mass-market paperback publishers who exercise increasing influence in the book industry.

The A.A.P. has spun off from the old N.B.A. a new set of awards to be known as The American Book Awards. The N.B.A. system of awards in a limited number of categories selected by three-judge panels of critics, scholars and writers has been jettisoned. The new awards will be chosen by the votes of an unwieldy body known as The Academy of the American Book Awards, composed of representatives in four groups: publishers, booksellers and distributors, librarians, and authors and critics. Each group will have 500 votes, and there will be five nominees in a greatly expanded panoply of categories selected by "committees," not "judges."

The new categories themselves give the game away. In addition to requiring that both a paperback and hard-cover title be chosen for an award in each category, thus according to the nouveau riche paperback publishers (who have become the tail that wags the dog of the industry with their large reprint-rights purchase money) the respect they have longed for, the categories go beyond the traditional fiction, poetry, history and so on. Awards will also be given to mysteries, westerns, "religion and inspiration" and "current interest (e.g., life style, sports, self-improvement, crafts, hobbies, cooking)," among others.

One need not have a Ph.D. in English to grasp the symbolism in all this. We have nothing against mysteries and cookbooks getting awards, but to mix them indiscriminately with the more serious works of the season dilutes the honor to the latter. Moreover, the entire selection process is skewed in such a way as to turn the awards in the literary categories into a popularity contest—i.e., the best sellers, the "blockbuster" books, the *succès fou*, the Rod McKuen poets of the moment will draw the votes of the commercially minded publishers and booksellers. One can recall the time a few years ago when the booksellers were requested to make N.B.A. nominations; their overwhelming choice in fiction was Erich Segal's best-selling *Love Story* (the judges promptly threatened to resign rather than consider it). One need not be an elitist to predict that 2,000 votes from all over the industry will not make the fine discriminations that a panel of three judges did; these votes will have a tropism toward the dazzling successes in each category; literary merit will be secondary.

But isn't this more or less the whole idea? In its press release announcing the new system of awards, the Association of American Publishers observed delicately that "an expanded, more visible book awards program was needed." What that means is that the A.A.P. would love nothing better than a televised Academy Awards for books like Hollywood's motion picture awards, with all the attendant hype and sales boost given to the winners. A couple of years back, a vice president at B. Dalton, one of the big bookselling chains that have come to dominate the retail end of the industry (chains now do 60 percent of the total general book sales in the United States, according to an article in *American Bookseller* by Maxwell J. Lillienstein), proposed a televised "people's choice" book award. Awards based on literary merit don't "translate into sales," he explained. That plan never got off the ground, but it has obviously been reincarnated in The American Book Awards.

Already the writers of serious books in this country are starting to protest. The Authors Guild rejected an invitation to lend its name to the A.B.A., and in a recent issue of *The New York Review of Books* a group of prominent winners and judges of the old National Book Awards called upon writers to boycott the new awards, a motion we second wholeheartedly. Quality publishers, such as Knopf and Far-

(Continued on Page 294)

There are still some openings on *The Nation*'s two-week sociocultural tour to Cuba, November 11-25, 1979. The tour will be based in Havana, with a side trip to Santiago de Cuba, and will include seminars with Cuban officials, as well as visits to schools, rural development projects, public ministries and agencies.

The cost of the tour is $1,555 per person including round-trip air fare from New York City; hotel accommodation in Cuba in the best available rooms, double occupancy; all meals in Cuba; all transportation and sightseeing in Cuba. *Reservations, with a $300 deposit, must be made by October 5.* Contact Karen Wilcox at *The Nation*, (212) 242-8400, for more information.

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SECOND THOUGHTS

CAREY McWILLIAMS

The contrast between two quite different farm-labor settlements in California suggests what might be done to alleviate the state's oldest and most persistent social problem. Anthony Perry, of *The Riverside Press-Enterprise* (which, under its present editor, Norman Cherniss, has become one of the best newspapers in Southern California) recently prepared a fine in-depth report on the town of Ripley, California—"two square miles of squalor set amid some of the richest agricultural land in the world," near the prosperous town of Blythe. The town is bordered by "soybeans on the south, alfalfa on the east, cotton and cantaloupes on the west, and tomatoes on the north." Some 450 people, farm laborers and their families, live in Ripley in run-down frame houses, tar-paper shacks and aging trailers. Ripley has no street lights, no public telephones, no curbs, no gutters and no sewer system. Garbage is thrown into a ditch. The elementary school was closed in 1971 to save funds; two years ago an arsonist set fire to it. Burned, vandalized, abandoned, the building that was the school is now surrounded by a wire fence. Presumably the children attend other schools in the district. Blacks, who constitute 10 percent of the residents, live north of the railroad tracks, and Mexican-Americans, who make up the other 90 percent, to the south.

Drinking is a major problem in Ripley, the poorest community in rich Riverside County. At night the teen-agers hang around a gutted gas station drinking beer and smoking marijuana. Inspectors for county agencies seldom visit the town. If they were to enforce county housing and sanitation codes, the residents would have to move.

Ripley is heavily Catholic. A priest from Blythe visits it on Sundays at 7 A.M. to celebrate Mass, but the communicants are unhappy with him. He refuses to baptize babies born to parents not married in the Church; nor will he marry persons who are not practicing Catholics or who happen to be less than 18 years of age. Church tensions have apparently been a factor in keeping the residents from getting together to improve their wretched living conditions. The priest has this to say of them: "They live among eyesores but see nothing." Some would like to improve their lot, he concedes, but most have been discouraged too long and too often. Tax boundaries are drawn in such a way that the rich farm lands surrounding Ripley are not taxed in aid of its water system. One of the oldest residents told Perry: "Ripley is a town for the disgusted, the disillusioned, the misplaced. It's a hell with the smell of hogs and sour cantaloupes thrown in. It's the end of the line. You've heard of the war on poverty. Well, in Ripley the war is over. Poverty won."

Now consider how eleven farm-labor families, mostly Mexican-American, function in an agricultural cooperative near Salinas. Each of these families is given a portion of the 100 acres leased by the co-op and, at the end of the year, profits are divided among the families according to the productivity of each piece of land. (See the story by Robert Lindsey, *The New York Times*, August 14.) At the moment, the families raise strawberries and other berries and produce crops. This particular co-op is one of six in the region that have been Federally financed through the Central Coast Counties Development Corporation as a means of helping migrant farm workers "get off their endless cycle of seasonal travel and poverty." Technical experts give the families guidance on accounting, marketing, soil practices and other problems. The corporation spends about $250,000 annually in support of the six co-ops, which are patterned after a successful experimental co-op organized in nearby Watsonville in 1972. It is quite a jump from farm worker to farmer; costs are high and financing difficult to obtain. "What farm workers don't need," according to one official, "are direct governmental loans; it would just perpetuate the giveaways, the paternalism and the do-goodism." They need assistance, guidance (particularly technical advice), financing and training, for there is more to successful farming than sowing seeds, weeding and harvesting.

To date, the development corporation has helped 176 migrant families, a total of about 1,000 people, participate in these co-ops. An agency official concedes that the co-ops have not made a dent in the problem—given the number of migrants and resident farm workers—but the program "has started a process" that will lead to change "and that's been important." In 1978 the eleven farm-worker families earned an average of $12,000 each. So far this year, families calculate they have already earned $14,000, and, with luck and good prices, should make $18,000 to $20,000 each.

It is possible to make too much of these initial co-op experiments. But the comparison drives home two points. In a farm-labor settlement such as Ripley—and it is by no means unique—the residents have become so demoralized by persistent poverty and adverse living conditions that they find it difficult to organize for self-improvement. Such settlements are "segregated" in the sense that the larger community draws an invisible bureaucratic rope around them and thereby effectively isolates them. Means must be found, therefore, to break the isolation; to join the "island of squalor" with the larger unit. Throwing money into improvident, poorly conceived projects will not help. The small co-op, with supervision and guidance and modest financing, is a better approach.

In the meantime, Riverside County will probably continue to ignore the island of squalor, the rural ruin, that is Ripley. Federal funds were received in 1975 to upgrade blighted neighborhoods and an allocation was made to Ripley, but so far nothing has happened. A grant was also obtained by the county to improve the town's water system, but it is still plagued with problems. Maybe *The Press-Enterprise* can prod Riverside authorities into examining the experiments in Salinas and then attempting something of the same sort in Ripley. □

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(Continued From Page 292)

rar, Straus & Giroux, have also protested. The A.B.A. is another sign of the way the wind is blowing in the book industry, and writers' groups such as the Guild and P.E.N. (which recently formed a publishing committee) are becoming more vocal on such issues as conglomerate takeovers of publishers and the way the chains are squeezing out the small bookstores. Re the latter, a good slogan would be, Authors unite! You have nothing to lose but your chains.

Carter-Trashing

On September 6, President Carter signed a clemency order freeing four Puerto Rican nationalists who had spent the past quarter of a century in U.S. prisons. (See Nelson, "Lolita Lebron Would Rather Die in Prison," *The Nation*, Aug. 11-18.) The four, who had been almost forgotten in the United States, were given a week's forum in the media to espouse the cause of independence for Puerto Rico; then the cheering ceased, the cameras stopped turning, the reporters moved on.

The reporting on the nationalists during their brief moment in the limelight managed to portray them as either representative of a fascist group bent on conquering the island or bloodthirsty maniacs who in a fit of Latin volatility shot up the House of Representatives. The President's decision to free the prisoners was reported with similar insight. It is, of course, fashionable to attack Carter these days, but there are certainly sufficient occasions to do so in relation to his energy programs or his economic policies. When he does something as quintessentially humane as freeing a group of aging nationalists, the critics might consider laying off. Carter's action will not win him the Puerto Rican vote; nor will it help get the Soviet troops out of Cuba. He knew this. He had little to gain beyond the fulfillment of his pledge to work for human rights around the world.

The illegal harassment the nationalists and other independence movements have been subjected to was both a literal and cultural form of violence; yet it was not considered worthy of mention. In Puerto Rico the violence goes on. The murder of independence advocate Carlos Muñiz in San Juan last summer by right-wing terrorists, barely noted at the time, remains unsolved. The Puerto Rican police officer who arranged the entrapment and killing at Cerro Maravilla remains in office and a "hero," in the words of Gov. Carlos Romero, who recently blamed the harmless explosion of two small pipe bombs on the return of the nationalists and Carter's "error in judgment."

The freeing of the nationalists could have been an excellent opportunity to educate the public on a thorny and painful political question that must be addressed in the coming years. Instead, all it produced was another round of Carter-trashing and Cuba-baiting in the press. The American people learned not that there are at least two sides to the question but that the only possible explanation for the Puerto Rican independence movement is "lunacy." ANNE NELSON

SYMPOSIUM.

Chartering the F.B.I.

John Shattuck, Jerry J. Berman and Morton H. Halperin

We need an F.B.I. charter. Time is running out for intelligence-agency reform as the record of past F.B.I. abuses recedes in the public mind, as the mood of the country becomes more conservative, as alleged foreign dangers once again inspire members of Congress to rail about domestic security.

Right now the F.B.I. operates under the Domestic Security Guidelines promulgated by Attorney General Edward Levi. By every indication, the F.B.I., under new and younger post-Hoover leadership, is conducting investigations focused on criminal conduct and not on lawful political activity. But as we all know, guidelines can be changed by a stroke of a pen. When debate heats up in this country over the scarcity of oil, nuclear power and fundamental issues of economic inequality, we could once again have a political police in our midst.

The proposed F.B.I. charter, which was drafted by the Justice Department and the F.B.I. and is now before the Congress, has major problems and requires amendment, but we are convinced that the investigative standards in that legislation do concentrate the F.B.I.'s focus on crime rather than on political activity.

Read the charter literally, or with the idea that the ghost of J. Edgar Hoover is residing at the Bureau, and any person of reasonable imagination can interpolate past abuses into its provisions. However, no law stands alone. Read the charter in terms of its accompanying section-by-section analysis and listen to Bureau officials explain to outraged right-wingers on the Senate and House Judiciary Committees that under the proposed charter they could not investigate "subversives" or Puerto Rican nationalists who threaten possible violent activity or groups who call for future revolution, and it becomes clear that a fundamental turnabout from past practices could be achieved by this legislation if it is amended in certain critical ways.

If the legislation has fundamental weaknesses, and it does, they relate to the adequacy of the controls to insure that the F.B.I. stays within its standards. The F.B.I. must be flatly prohibited from engaging in any COINTELPRO activities. There is a need for an external check on infiltration by undercover agents to insure that lawful groups are not investigated or disrupted. The

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Bureau must be required to go to court to gain covert access to investigative records when it believes that notifying the subject of the records would endanger life or undermine a lawful investigation. Congress and the General Accounting Office must have reasonable access to F.B.I. files in order to exercise oversight under terms that protect the privacy of citizens and the confidentiality of Bureau sources in legitimate criminal investigations. Most important, the charter needs civil remedies for violations of the sections dealing with civil rights. For example, the charter does not authorize smear campaigns against a Martin Luther King Jr. or a Jean Seberg—dissemination of information (or misinformation) for such purposes is not permitted. But the courts have still not recognized such dissemination as a "constitutional tort," which would allow citizens to recover damages in civil suits. Congress *must* create a statutory right to recover damages for such outrages. That might impel the F.B.I. to use the internal disciplinary mechanism in the charter which, by itself, is wholly inadequate as an enforcement mechanism.

These changes in the charter can be made because they are reasonable. But if reformers attack the whole concept of this bill out of unfounded fears, this legislation could be doomed. The right will be quite pleased. If nine contested seats in the next election go to the Republicans, Strom Thurmond will asssume the chair of the Senate Judiciary Committee, and he is already demanding to know why the F.B.I. is not conducting loyalty investigations and going after the Progressive Labor Party.

History should teach us that the real danger lies not so much in the Bureau as it does in the Congress or the executive branch. The F.B.I. is a bureaucracy, and its new routine is to focus on crime rather than politics. A bureaucratic routine once learned has a momentum of its own. But Congress and the Presidency change every two or four years, and the pressure they can mount on the F.B.I. to expand investigations, as they did in the 1950s and 1960s, could well be the real problem in the 1980s. (The Bureau has already resisted pressure to investigate all cults after the People's Temple suicides in Guyana.) We need the charter to protect us from the Congress, the President and swings in the political pendulum, as well as to control the F.B.I.

Every year, the Congress approves an F.B.I. "domestic security" budget (which last year it increased by $1.8 million, much more than the Bureau requested), a budget that quietly authorizes all of the investigative activities in the charter—but without any guidelines, procedures or remedies which charter legislation, *properly amended*, would provide. If civil libertarians signal that the charter effort should be abandoned, Congress will readily oblige. Defeat of an imperfect charter, yes. Victory for civil liberties, no. □

Ramsey Clark

It is only four years to 1984 and the Congress of the United States is considering a charter for the F.B.I. The narrow, authoritarian range of the proposals before it shows how far America is from total commitment to the idea of freedom. The rule of law requires that all government action have its springs in statutory or constitutional law, that government confine itself strictly to authorized activity, and that the limitations on government acts be vigilantly enforced.

If law does not tell the policeman whether, or under what circumstances, he may shoot you, beat you; prevent you by force or threat of force from speaking, publishing, assembling, associating, preaching or praying; break into your home by smashing down the door or crawling through a window; deceive or trick you; wiretap or bug you; arrest you; lie, steal, rob, cheat, violate any laws to catch you in crime; induce you to commit crime by providing you with the idea, the means, the gun, the car, the courage and the companionship; destroy all record of his acts, conceal his involvement, all without independent oversight, review, without accountability or criminal prohibition—if law does not set permissible limits, then we are a police state, not a democratic society under law.

After Watergate and a score of severe warnings, we have finally begun to see that we should impose a charter on the F.B.I. that it may act in accordance with law. In doing so, we show that we have forgotten the teaching of John Locke concerning civil government: "So that however it may be mistaken, the end of law is not to abolish or restrain, but to preserve and enlarge freedom." For we are considering a law that, far from preserving and enlarging freedom, puts the imprimatur of positive law on police practices and abuses developed over the years that are irreconcilable with the ideas of freedom.

A great irony is that J. Edgar Hoover, while approving, condoning and encouraging the practices, never sought Congressional approval of them because he thought the American people would object. Instead, he tried to protect the Bureau by obtaining authorization, usually unwitting, from Attorneys General, who were too often "men of zeal, well-meaning, but without understanding." And, as Justice Louis Brandeis warned, therein "the greatest dangers to liberty lurk." Now, in the wake of Hoover's career, and knowing of the revelations about COINTELPRO, and the outrageous violations of individuals' freedom, from the Black Panthers to Martin Luther King Jr., from Ethel Rosenberg to Jean Seberg, Congress contemplates memorializing the practices by legalizing them.

Look at the roll of authorized activity: "serious criminal act(s)" if approved; informants, paid and volunteer, including doctors, lawyers, preachers and reporters; undercover agents; infiltration, even of political groups; surreptitious electronic, physical, mail and photographic surveillance; access to records of individuals maintained by banks, insurance companies, credit institutions, the Internal Revenue Service and other government agencies; scrutinizing trash.

If we want a rule of law and liberty we must limit police authority strictly to compliance with the Bill of Rights and the law of freedom it embodies. We must prohibit unlawful acts by government agents, or inducement of others to commit such acts. "Our government is the potent, the omnipresent, teacher. . . . Crime is contagious. If government becomes a law breaker, it breeds contempt for law. . . . To declare that in the administration of the criminal law the end justifies the means . . . would bring terrible retribution," Brandeis wrote in the first wiretap case to reach the Supreme Court.

The vast extension of F.B.I. powers to investigate "terrorist activities" exposes the underlying role of fear. Every generation, like every individual, has its

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special fear: witches, Indians, rebellious slaves, Johnny Rebs, foreign riffraff, Bonnie & Clyde, Communist conspiracy, organized crime, demons from the dark ghetto. Now come terrorists. God knows they are terrifying. Shall we abandon the law of liberty then? Like Winston Smith in George Orwell's *1984* confronting Room 101, we are so paralyzed by fear that we abandon our future to the police. Will American society have the same overwhelming need for relief from its fear that finally enabled Winston Smith to find peace only when "he loved Big Brother"?

Politicians, the weather vane of American public opinion, are too afraid of the police to suggest they ought to obey the law. Instead, they empower them to act as they choose to protect us. The Ten Commandments, the Bill of Rights, have the single exception—our protector, the King, the Inquisitor, the dictator, the police.

All police conduct must be authorized by law. Investigation, arrest, use of force must all be carefully regulated. Police power in a free society ought to be limited to investigation, prevention and control of violence and other serious antisocial acts. It should never be used simply to investigate unpopular people or groups or to compile dossiers. Law should absolutely prevent provocative police acts. Violations must be subject to criminal sanctions. For who will protect the people when the police violate the law?

We must control our foreign intelligence activities as well as domestic police work. We should know the crimes committed in the name of national security by now. Law should carefully protect privacy from police invasion and computerized dissemination of government data. Record-keeping should be required to assure accountability. Police should be trained to understand and want as their first priority the prevention of police crime. They should see their own scrutiny as basic to integrity. There should be a Federal Police Review Commission drawn democratically from the public with plenary power to investigate all allegations of wrongdoing, to compel testimony and the production of records and to refer violations for administrative action and criminal prosecution.

We are told this is difficult. It is. Freedom is difficult. We have to choose. Americans should choose "the perfect law of liberty." □

Thomas I. Emerson

The American people do not need to be told that control of the intelligence agencies is one of the most critical issues facing the American democratic system. The recent exposure of glaring abuses, as revealed by several Congressional committees and by other sources, has made this abundantly clear. The problem is how to do it.

The task is not easy. Various political forces who place draconian law enforcement above democratic values are fearful of any limitations upon police operations. The intelligence community itself, even more than most bureaucracies, strongly resists control. The inherent difficulties of limiting the investigatory process are well known: not much ingenuity is required to find a rationale for making an investigation, or to investigate whether to investigate; some degree of secrecy in intelligence operations is necessary, and enforcement of standards against the police themselves has never proved to be simple. Legislation may easily end up merely granting the intelligence agencies new powers and legitimizing previously illegal or questionable practices. Nevertheless, the task must be undertaken. Unfortunately, the pending F.B.I. charter bill (S.1612) does not do the job properly. Important revisions are imperative.

The first thing to note about S.1612 is that, as Senator Edward Kennedy observed in introducing the bill, it was "drafted by the Bureau." It seems strange that Congress or the Carter Administration would delegate to the F.B.I., the very agency to be brought under civilian control, the task of drafting the initial bill. While other individuals and groups will have a hand in determining the eventual outcome, the original bill presented for consideration does set the tone and to some extent establishes the frame of discourse.

In any event, the result of this unfortunate beginning is that there are many things wrong with the bill as it now stands. While there are more problems than can be mentioned here, the principal objections reflect the authorship of the bill and may be briefly stated.

(*1*) The bill is designed primarily as a grant of power and authority to the F.B.I., not as an assurance against the repetition of its past errors. While it does of course contain limitations, nowhere does it explicitly condemn the major abuses that have characterized the operations of the F.B.I. up to now. Thus, there is no express prohibition of preventive action of the COINTELPRO type used against Dr. Martin Luther King Jr., of selective investigations, or of the use of techniques such as break-ins, or even an effective proscription of political surveillance. Nor is there any general provision limiting targets, procedures and operations to those authorized by the bill.

(*2*) The bill vastly extends F.B.I. powers by creating a new area where the F.B.I. is authorized to investigate, to be known as "terrorist activities." The term "terrorist activity" is very broadly and vaguely defined. It would allow the F.B.I. to investigate much conduct that did not violate any Federal law but only state or local law. In addition, the F.B.I. is empowered to investigate any persons it believes to be "associated" with persons or groups engaged in "terrorist activities" taking place outside the United States. There is no sound reason for enlarging F.B.I. jurisdiction to this dangerous degree.

(*3*) S.1612 authorizes the F.B.I. to utilize highly intensive methods of investigation that are incompatible with democratic institutions. Thus, it may use informants or undercover agents to infiltrate political groups or organizations, and such persons are permitted under certain circumstances to engage in illegal conduct. No court warrant is required. Other provisions establish a new device, called "an investigative demand," by which the F.B.I. can obtain access to a person's or organization's telephone toll records, insurance records and credit records, again without judicial warrant and frequently without notice to the subject being investigated.

(*4*) The bill is also seriously flawed by weak provisions for accountability, thus leaving inadequate records by which to monitor performance. Even more important, there is no provision for effective review of F.B.I. operations by persons or institutions outside the Justice Department. Not only is there no provision for oversight by an agency such as the General Accounting Office but the obligation of the Attorney General to provide information on F.B.I. activities to Congressional committees extends only so far as the Attorney General himself may "agree." In view of the

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difficulties in clearly defining F.B.I. powers and limitations, and the demonstrated propensity of intelligence agencies to overstep boundaries, the importance of maintaining effective, outside oversight can scarcely be exaggerated.

(5) Finally, there are no provisions in the bill for criminal prosecution of those who violate the mandates of the bill, or for civil remedies by those whose rights have been infringed. While such provisions would not in themselves assure compliance by the F.B.I. with the terms of the legislation, they do create a significant incentive within the agency to observe basic legalities.

In short, the F.B.I.'s version of legislation to control itself falls far short of what is necessary. Some legislation needs to be enacted. It would be a tragic mistake to allow the F.B.I. to continue operations with virtually no statutory guide as to what its powers, limitations and responsibilities are. Moreover, time is running out. On the other hand, there are some bills that would be worse than nothing. The F.B.I. bill in its present form, in my judgment, falls within that category. Whether that situation is changed depends upon progress made when points of view other than the F.B.I.'s are incorporated in the bill as the legislative process goes forward. □

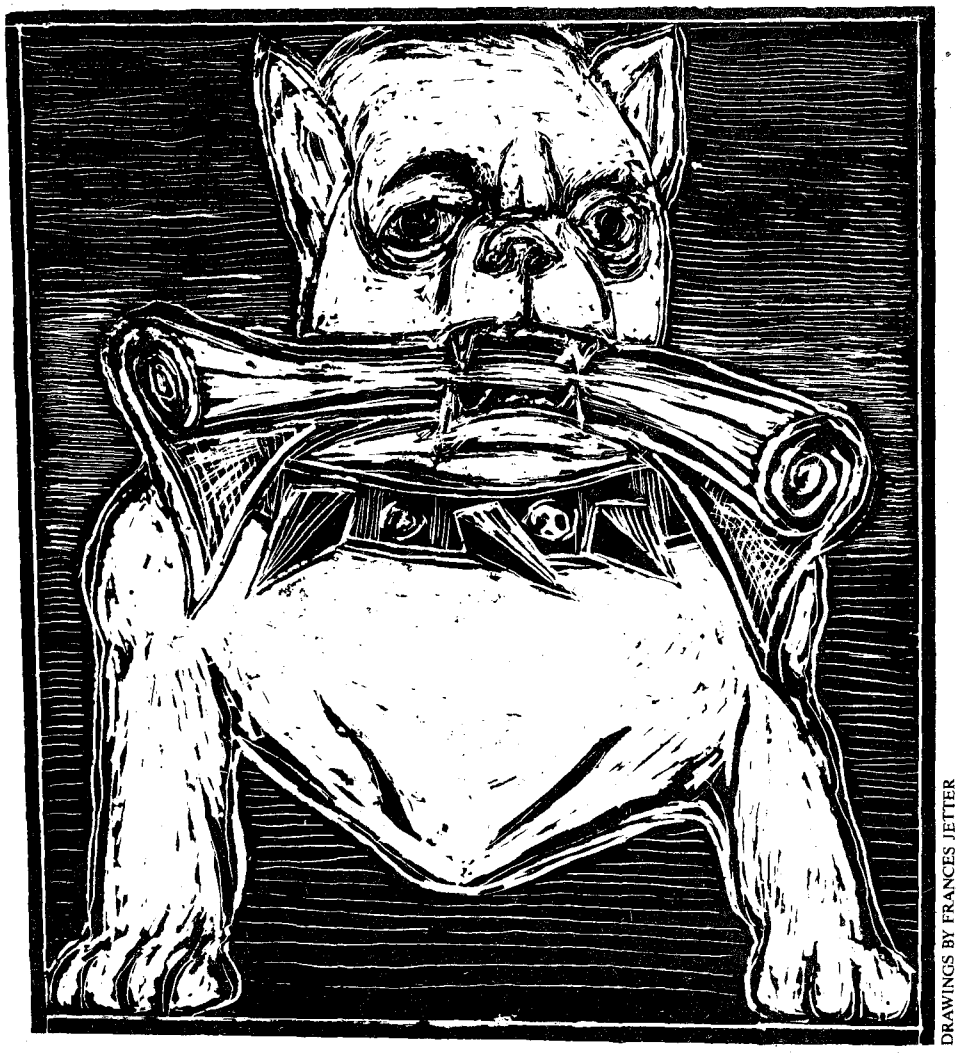
Sanford J. Ungar

To codify the legitimate duties of one of the most powerful police agencies in the world and at the same time build reasonable safeguards against abuse of its authority is no mean feat. The Carter Administration, in an all-too-rare display of competence, confidence and cooperation with Capitol Hill, seems to have come surprisingly close to that goal in the development of its proposed charter for the F.B.I. Admittedly, some recognizable compromises were made along the way. But they were apparently worthwhile, since the charter legislation can now be presented with bipartisan sponsorship rather than becoming yet another inappropriate vehicle for the settling of partisan (and especially election-season) scores.

If the choice is between a somewhat flawed charter and none at all, the first is much to be preferred. Until former Attorney General Edward Levi promulgated some rudimentary procedural and behavioral guidelines in 1976, the Bureau operated with virtually no external definition of what it should and should not do. The abuses that evolved during one man's half-century of utterly unaccountable rule are horrifying enough, but viewing the circumstances in retrospect, it is really quite remarkable that they were not worse. They could recur, and they could be worse. On the whole, Levi's guidelines have worked well, and so now—in a relatively calm environment—is precisely the time to take supervision of the F.B.I. a major step further, always assuming that refinements and improvements in the charter may have to be made later.

Thus, it may be necessary to put aside temporarily complaints that the proposed charter does not deal at all with the Bureau's foreign intelligence collection and foreign counterintelligence investigations, that it does not put stringent enough restrictions on the behavior of F.B.I. informants, and that it leaves the agency entirely too much latitude in its use of intrusive investigative techniques and its access to the confidential financial records of private citizens. The intelligence matters can—and presumably will—be dealt with in a separate charter, perhaps all the more capably so if the first one succeeds. On the other points, concerning informants and techniques, it may be wisest not to be too specific at first. For if the prohibitions on the Bureau are overly precise, they may be easily repealed in time of crisis or panic, thereby giving the F.B.I. the idea that it has a mandate to do exactly what it was previously told it must not do. It is better for legislation to set general standards and a spirit of behavior, which can subsequently be elaborated in guidelines, legal cases and internal administrative regulations that penalize abuses.

A few of the more obscure nooks and crannies of the charter do deserve careful attention in the process of hearings and review. It is helpful, for example,



DRAWINGS BY FRANCES JETTER

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that the Bureau's "legal attachés" in twelve American embassies overseas will finally be given formal sanction and have their duties defined; yet what, if anything, can be done to prevent the "Legats" from going beyond their perfectly legitimate conduct of liaison with foreign police agencies to bush-league intelligence-gathering operations of the sort that many have practiced in order to make themselves look busy?

How much good does it do simply to reiterate, as the proposed charter does, that the F.B.I. "may modify, suspend, or cancel the exchange of criminal record information" with any agency or organization that improperly uses it? The abuse and exploitation of data in the records of the Bureau's National Crime Information Center are rampant, and that will continue to be true until a penalty more severe and less self-defeating than suspension of access is instituted.

There is also some question whether the charter is tough enough on the freelance use of "sensitive investigative techniques" by F.B.I. agents acting on their own or in conjunction with local police forces. (It has long been believed that the Bureau's most serious violations of the Federal restrictions on wiretapping, for example, were not those sanctioned by top F.B.I. and Justice Department officials but those carried out at a lower level while the highest-ranking officials looked the other way with assumed innocence.)

Some things, of course, no written document or legal charter can ever do. It cannot establish a spirit within the Bureau of welcoming constructive outside supervision and guidance. It cannot shape the values and peer pressures—the informal standards and rewards—that have so much of an influence on how agents conduct themselves from day to day and how they treat the public. And it cannot teach F.B.I. agents not to be suspicious and distrustful of anyone whose life style and political views, not to say hairdo and clothes, do not come straight out of the unwritten J. Edgar Hoover manual on personality and politics.

Nor can a charter establish investigative priorities, or instill a healthy dose of skepticism about the idea that the Bureau always knows best how to do everything. It cannot teach the youngest and newest agents openly to question and challenge their superiors—all the way to the top—even as they show them the respect necessary to get along.

All of these are areas where the F.B.I. needs to change and evolve. On some it has already made significant, even remarkable, progress in the seven years since Hoover died. On others it still has a long way to go. But the arrival of a sensible charter that helps establish a calmer and more rational definition of the Bureau's work will help. □

Mae Churchill

Much has been made in legal circles of the alleged absence of statutory authority for the operations of the F.B.I. What is meant by that complaint is that no statutory authority could be cited in defense of the Bureau's indefensible practices which, if engaged in by other law-enforcement agencies, would simply be called lying and spying. The proposed charter rectifies this embarrassing situation in a straightforward, lawyerly fashion: if there is now no law supporting the activities, make such a law. To make sure that the new law covers all bases, let the principal bureaucrats responsible for the operation write the law. This is precisely what was done. As Senator Edward Kennedy (yes, Senator Kennedy) said in introducing the charter: "It culminates over fifteen months of intense effort by [F.B.I.] Director Webster, Attorney General Bell and Attorney General Designate Civiletti. . . . The strongest advocate has been the Director."

It is, of course, not entirely accurate to say that the F.B.I. lacks statutory authority. Provisions long on the books authorized the Bureau to function through "the person of the Attorney General." That arrangement eminently suited J. Edgar Hoover during his forty-eight-year regime; there was never an Attorney General (or anybody else for that matter) who effectively gave him orders. But times have changed; we have lost our innocence and know too much. Clearly, we need another law.

The proposed charter requires the Attorney General to provide the F.B.I. with written guidelines covering all important Bureau activities. Reviewing the provisions for these guidelines is shockingly instructive. The lawyers giveth them what the lawyers taketh away from us. F.B.I. activities explicitly listed in the proposed charter include:

§ The conduct of criminal investigations ("with minimal intrusion consistent with getting the information").

§ Retention, dissemination and destruction of information.

§ Undercover operations, including infiltration of groups under investigation and recruitment of informants within the groups.

§ Investigation of civil disorders and public demonstrations.

§ Background investigation for other Federal agencies of appointees, applicants and employees.

Authorized investigative techniques for carrying out the chartered snooping described above would include the use of informants, paid and volunteer; undercover agents; physical surveillance; mail surveillance; electronic surveillance; access to personal records in the possession of third parties, such as banks, credit institutions, insurance companies and the Internal Revenue Service, to name a few; trash covers; pen registers; consensual monitoring; electronic location detectors; covert photographic surveillance; pretext interviews, and the use of physicians, attorneys, clergymen and reporters as informants. Needless to say, caveats are strewn throughout the document. For example, undercover agents are normally expected to operate within the law, "unless unlawful acts are necessary to obtain information or evidence." Given the extensive list of "authorized" investigative techniques, it may become a real challenge to the creativity of F.B.I. agents to dream up unauthorized techniques.

Among the safeguards provided by the proposed charter is a clear prohibition against investigation "solely on the basis of a religious or political view lawfully expressed." Nor is there to be any snooping into the lawful exercise "of the right to peaceably assemble." However, the F.B.I. *is* authorized to "collect information . . . concerning an actual or threatened civil disorder . . . or relating to a peaceful demonstration . . . likely to require the Federal government . . . to provide assistance or to provide public health or safety measures thereto." (Portable toilets?) Authorized investigative techniques for collecting information on public dem-

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onstrations are limited "insofar as is practicable to the collection of publicly available information . . . except in exigent circumstances."

Even a superficial review of a proposed charter must include several other items. For example, informants must be advised that the F.B.I. will not sanction participation in criminal activities, "except insofar as a supervisory F.B.I. or Justice Department official determines in writing . . . that his participation in such activity is justified." For undercover agents, too, specific approval must be obtained "if the agent is to participate in a serious criminal act that is not an integral part of the undercover operations."

In another area of undercover operations, the F.B.I. is permitted to establish and operate "proprietaries" with no apparent restriction as to their kind. A proprietary is defined as "a sole proprietorship, partnership, corporation, or other business entity that is owned or controlled by the F.B.I. in connection with undercover operations but whose relationship with the F.B.I. is not generally acknowledged." Presumably such operations are directed at the entrapment of criminals; the charter doesn't say. It does, however, provide that "the F.B.I. may establish, furnish, and maintain secure cover for F.B.I. personnel or informants, by making false representations to third parties, and by concealing the government involvement in the operation." The proprietary may be operated on a commercial basis and when "liquidated, sold, or otherwise disposed of, the F.B.I. . . . shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation sale or other disposition . . . shall be deposited in the Treasury of the United States as miscellaneous receipts." Who could ask for anything fairer than that? It might, however, make one wonder about the friendly neighborhood liquor dealer or newsstand operator, to say nothing of the local mortician. From the C.I.A. we learned about proprietary publishers and publications, medical-research institutions deeply involved in experiments with mind control and other worthy tasks, airlines and cultural fronts of various sorts. Still, perhaps we are only now beginning to explore the full potential of chartered proprietaries.

To offset enriching the public treasury by surreptitiously adding the profits of proprietaries, there is a titillating provision under the caption "Procedures for Unforeseen Emergencies." It says: "Appropriations for the F.B.I. are available for expenses of unforeseen emergencies of a confidential character . . . to be spent under the direction of the Attorney General. . . . The Attorney General shall certify the amounts spent and his certification, to be filed in the records of the Department of Justice, is a sufficient voucher for the amount therein expressed to have been spent."

Other noteworthy indulgences in secrecy authorized to the Attorney General and to the Director include a provision that evades a requirement in the Right to Financial Privacy Act of 1978 (a deceitfully named act if ever there was one) that any individual whose records are sought be notified in advance and his permission obtained; the Attorney General may, in his discretion, delay the required notice for one or more successive periods, not to exceed ninety days each.

Perhaps the most elegant of all the tricky devices produced by our prestigious legal minds is that dealing with the maze of guidelines so laboriously arrived at. Under the caption "Protection of the Investigative Process," it is written: "Any guidelines promulgated by the Attorney General . . . shall be made available to the public *unless* the Attorney General determines that . . . [it] cannot be made public without . . . jeopardizing the investigative process . . . in which case the guidelines . . . shall be considered an investigatory record." Needless to say, investigatory records are not available to the public. That protects the Attorney General nicely; a similar provision protects the Director. What about an employee who violates the charter? In his case, the Director *may* impose a civil penalty up to $5,000 if it can be proved that he "intentionally" used any of the sensitive investigative techniques, knowing that such use violates the provisions of the charter.

More about guidelines. Under the caption oddly entitled "Civil Remedies," it says that "failure of the F.B.I. to follow its own guidelines or procedures does not give the Court jurisdiction to quash a subpoena, suppress evidence, or dismiss an indictment." In short, the public has no effective remedy against the failure of the F.B.I. to follow its own rules, assuming they can find out what they are; the Bureau has no effective remedy against employees who violate the charter and its guidelines. But if this charter is approved, the F.B.I. will have sanctions for practices which, in a simpler time, were thought illegal, immoral or both. It will take a bureaucratic army of undercover agents, paid informants, co-opted journalists and other professionals, but there will be guidelines and paper trails, some of which may even be public.

Good men, these charter writers. They seem to have thought of everything, except thee and me. □

Aryeh Neier

Most discussion of the F.B.I. charter will focus on the legislative authorization it belatedly grants to the Bureau to operate, as it has all along, as our national political police. That has been the main concern of the F.B.I.'s critics ever since 1908 when Attorney General Charles Joseph Bonaparte (a descendant of *the* Bonaparte) took advantage of the adjournment of Congress for six months in an election year to establish the F.B.I.'s predecessor, the Bureau of Investigation. Back then, a Congressman from Iowa warned that, "No general system of spying upon and espionage of the people, such as prevailed in Russia, in France under the Empire, and at one time in Ireland, should be allowed to grow up." The Congressman intended the reference to France under the Empire to remind his colleagues in Congress that the Attorney General's famous ancestor had presided over the creation of the first political police.

Little attention will be paid to another feature of the charter that may be equally sinister: its perpetuation of the role of the F.B.I. as our national employment clearinghouse. Over the years, this aspect of the Bureau's work has claimed an even larger share of its resources—that is, the taxes you and I pay—than its espionage and dirty tricks.

The clearinghouse role is maintained by a single sentence in the charter. In the list of agencies with which the Bu-

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reau is authorized to exchange "criminal fingerprint records and criminal history information," Section 536e(a)(4) specifies "a State or local agency authorized by State statute to obtain such information for employment or licensing purposes, if the Attorney General or his designee has approved exchange under the statute." The magnitude of the operations this authorizes can only be conveyed by figures. At last report, the F.B.I. was providing an average of 16,000 reports every working day to state and local agencies for employment or licensing purposes, or about four million a year. And since in Bureauspeak "criminal fingerprint records and criminal history information" include arrest records as well as conviction records, even those acquitted of criminal charges will continue to be smeared by the Bureau when they seek jobs or licenses. The only limitation on sending out arrest records to be found in the charter continues a modest reform adopted a few years ago: if the arrest took place more than a year earlier, the F.B.I. also must report the disposition. Prior to that, the F.B.I. was in the habit of sending out only arrest records, leaving the recipient to speculate whether the job applicant had been acquitted or convicted. Things are not much different now. An employer who receives a report from the F.B.I. that a job applicant was charged with burglary but acquitted is very likely to choose another applicant.

The F.B.I. has always claimed that its employment clearinghouse operation was an important part of its law-enforcement function. This makes sense only if you are willing to believe that it will reduce crime if millions of people with arrest records are kept out of work. For those who find this proposition difficult to swallow, the Bureau might be regarded as part of the problem of crime, not as part of the solution.

When civil libertarians attacked the proposed codification of criminal law contained in bill S.1, the son of S.1 and the grandson of S.1, sponsors of the legislation responded that much of the criticism concerned aspects of present Federal criminal law that were simply being codified. To which the critics replied that a new criminal code is enacted no more than once in a lifetime. That was the time, therefore, to seek improvements. So it is with the F.B.I. charter. It is not sufficient to perpetuate the evils of the past; this is probably the only chance we will ever get to make things better. □

William Preston

Under J. Edgar Hoover's notorious COINTELPRO program, F.B.I. agents were directed to "contain and neutralize" New Left and other dissident organizations. It is now time to mount a similar operation against the F.B.I.—to dismantle the coercive apparatus Hoover erected and prevent its reappearance in any form whatsoever. Apart from a few indictments of top Bureau officials, some internal housecleaning, a new Director ostensibly committed to the rule of the law, and a revived interest in Congressional oversight, no other reform will so influence the nature of Federal law enforcement as the proposed F.B.I. charter. Americans will be mortgaging their future liberty and safety to this document and they should scrutinize its fine print with extreme care.

Like all constitutional documents, it must inevitably reflect yet also counteract the historical context from which it springs, recognize realities yet point to different and better priorities. In this instance, the charter must reverse a long tradition of Government lawlessness, some deep-seated attitudes regarding national-security privileges, an entrenched bureaucratic arrogance and independence, and a long-standing confusion between law-enforcement and internal-security functions. The charter, in other words, is being asked to impose appropriate legal guidelines that the Constitution itself, Attorney General Harlan Fiske Stone's reorganization in 1924, the F.B.I. manual and numerous top directives have so far failed to achieve and that the last seven Presidents have not wanted to be achieved.

The most restrictive charter imaginable would confine the F.B.I. to criminal law enforcement, eliminate its intelligence functions, and subject all investigative techniques to constitutional restraints. This charter clearly does not do that. In that sense, it is not nearly as demanding as the 1924 reform. A second and less limiting document would allow preventive detection of criminal individuals and organizations with appropriate judicial safeguards but still forbid political intelligence operations. In both these examples, the charter would clearly and unequivocally spell out the full range of forbidden behavior. The proposed charter does not do that either.

Instead, the new F.B.I. charter embraces fully the Bureau's present broad responsibilities, ranging from organized crime to disorganized dissent, and attempts to impose upon its operations some cautionary guidelines prohibiting the worst abuses of the immediate past. The prescriptions are laced with exceptions because the dominating operational philosophy still focuses on anticipatory criminality and the embryonic criminal, whether his inclination be gangsterism, espionage, subversion or disruption. While disclaiming interest in lawfully expressed views and focusing on criminal conduct, the charter tolerates a minimal intrusion by an inquiry into areas of potential crime, where the inquiry could lead to an investigation aimed at preventing possible overt behavior at some undetermined later date.

To cite another example, the practice of employing informers and undercover agents lives on. Stricter recruitment standards supposedly will insure better-quality informers, and guidelines will restrict their initiation of or participation in criminal acts, but the number of authorized exceptions still permits a dangerous degree of latitude. Nor does the charter recognize the insidiously disruptive effects that informers by their very presence have in organizations whose policies some government officials may suspect. (Hoover's F.B.I. poisoned the air in organizations that were targets of COINTELPRO simply by letting their members know that there was an informer among them.)

Numerous caveats, including caveat emptor, might be issued against the proposed charter. Its defenders will sing the praises of a full repertory of surveillance techniques in the investigative arsenal the way big-city police used to extol the third degree. The nation will survive without these techniques, and the F.B.I. go on to become a more competent, finely tuned force of crime fighters. If the proposed shadow charter goes through, the rueful suggestion of

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Erwin Knoll, editor of *The Progressive*, would make considerable sense. Knoll said that, "The interests of a free society are best served when the head of the secret police is a bumbling nincompoop or an overt villain—or both—so that the people can hold both the director and the agency in wholesome contempt." New trust, when it comes, must be securely grounded in reality. □

Peter Steinberg

Senate Judiciary Committee hearings on President Carter's proposed F.B.I. charter nearly coincide with the thirtieth anniversary of the Smith Act conviction of eleven of the American Communist Party's top leaders. On October 14, 1949, a jury convicted the party heads of violating the 1940 sedition statute by "conspiring to teach and advocate the duty and necessity of overthrowing the United States government." The case, nearly forgotten among the avalanche of accusations against the F.B.I. since Watergate, provides a stark indictment of the inadequacies of Carter's proposals, for much of the charter would simply formalize procedures that have existed within the F.B.I. since J. Edgar Hoover's reign.

At the time of Hoover's appointment as head of the Bureau of Investigation in 1924, Attorney General Harlan Fiske Stone expressly restricted the Bureau to investigations of "conduct as is forbidden by the laws of the United States." He sternly warned Hoover that the agency was "not concerned with political or other opinions of individuals."

Despite Stone's restrictions, Hoover launched an anti-Communist crusade. The onset of World War II allowed the creation of a Custodial Detention List, which was to include the names of all those whom Bureau agents considered sufficiently dangerous to be arrested immediately in case of a "national emergency." The Attorney General was not initially informed of the list's existence. In 1943, when Attorney General Nicholas Biddle ordered the termination of the list as vague and unjustified, and restated the Stone injunction, his edict was circumvented. Hoover secretly directed the continuation and expansion of the list under the designation "Security Index." By 1945, the names of more than 10,000 Americans, primarily alleged Communists, were on a list that made them subject to immediate arrest solely on the F.B.I.'s authority. Thousands of citizens, during the same period, were recruited and sent to infiltrate left-wing organizations—all without any allegation of illegal acts.

In the postwar period, the F.B.I. secretly planned an anti-Communist "educational" campaign to prepare the American people to accept massive future arrests. Smith Act prosecutions were considered a tool to portray the dangers of a Communist conspiracy and prepare the groundwork for an internal cold war to be waged in conjunction with the developing external one. Bureau personnel and close contacts were placed in high positions in the Justice Department and the National Security Council.

F.B.I. information was planted in newspapers, the labor movement, religious organizations and the halls of Congress. In early 1948, highest-level F.B.I. officials joined with subordinate Justice Department personnel to force the Truman Administration to accept prosecution of Communist leaders under the Smith Act—all part of a plan worked out two years earlier.

On February 5, 1948, as Attorney General Tom Clark was testifying before the House Un-American Activities Committee that the Smith Act could not be used as an effective prosecutorial weapon, the F.B.I. delivered to his office a massive 1,300-page brief, with 546 exhibits—supplemented within months by two additional briefs—to force indictment of the Communist Party leaders. Although Hoover always maintained that the F.B.I. never sought prosecutions, his cover letter to Clark stated that this was a brief "to establish the illegal status of the Communist Party." He admitted that the brief provided no specific individual violations of law, but said it clearly demanded legal action.

The Bureau closely monitored and controlled the internal decisions that led to indictments in the summer of 1948 and convictions in the fall of 1949. Clark later admitted that the Bureau's involvement in the case was often "unprecedented," and yet it served as the basis for F.B.I. political actions during the next twenty-five years—and perhaps more.

None of the latitude which permitted the F.B.I. to inject itself into the political process in the past will be ameliorated effectively by the Carter charter. As in the past, the Attorney General is still to promulgate guidelines for F.B.I. investigative techniques. Informants may still be placed in a wide variety of organizations considered suspect by the Bureau, with a "supervisory F.B.I. official" to determine their suitability and with written notice to the Director. Even the concept of public disclosure of Bureau records—a limited check during the past several years—is to be restricted severely since both the Attorney General and the F.B.I. may withhold not only Bureau procedures but even department guidelines where *they* deem these might assist criminals or compromise investigations. Courts are to be barred from the disclosure of confidential informants when the Attorney General determines that their identity must be protected.

The charter would place the major responsibility for control of the F.B.I. in the Bureau itself and in the Justice Department—where it has been already. If civil liberties are to be protected, the people often need protection *from* these agencies as well as by them. Instead of a generalized charter to be filled in by the Bureau itself, the nation requires a narrowly drawn set of regulations, including far greater prior restraint in the areas of human and technological infiltration and in the choice of investigative targets. There should be a requirement for a judicial warrant based on evidence of current illegal acts before the commencement of such tactics. It is essential that independent auditors be given full and immediate access to all F.B.I. personnel and materials, rather than the charter's requirement of periodic numerical reports to the Senate and House Judiciary Committees. As Attorney General Stone said fifty-five years ago: "There is always the possibility that a secret police may become a menace to free government and free institutions. . . ."

It appears that the charter's authors either wrote it to place a political quietus on a most troublesome controversy, or simply lacked the necessary historical perspective to create effective controls. Thirty years after the sedition conviction of Communist leaders for their political ideas—and the twenty-five years of McCarthyite terror which partially resulted—it is time to destroy the "secret police" so rightly feared by the former Attorney General. □

Peter Steinberg is writing a book on the Federal Bureau of Investigation and the Communist Party.

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ARTICLES.

JORDAN AND THE PALESTINIANS

Hussein's Separate Peace

MILTON VIORST

Amman

Over the course of decades of cold war in the Middle East, and American support for the archenemy Israel, Jordan's King Hussein was Washington's only reliable Arab friend. Though he was petulant about the Camp David accords, the State Department was confident that he would, before long, return to the fold. It is apparent now that Washington seriously miscalculated.

Earlier last month, during the debate over Castro's pro-Soviet position at the Conference of the Non-Aligned Countries in Havana, Hussein was conspicuous in not coming to America's defense. He conveyed essentially the same message in his speech at the U.N. General Assembly last week. Much to Washington's chagrin, in fact, he moved a step or two further away, pronouncing the Camp David accords deficient in the "basic fundamental elements for any reasonable and comprehensive settlement" of the problems of the Middle East.

In the past, the United States had counted on the hostile designs of Hussein's neighbors, Syria and Iraq, to keep Jordan safely in the Western camp. But as Hussein patiently explained to the series of emissaries sent here by Washington—Brzezinski, Vance, Brown and Atherton among them—he is more immediately threatened from within than without. Neither Syria nor Iraq was likely to attack unless a mortal blow had already been struck by the Palestinians inside Jordan's borders. So Hussein's first priority was to placate the Palestinians—all of whom were outraged by an agreement between Carter, Begin and Sadat which they felt had sold them out.

More than half of the 2.5 million people who currently live under Hussein's rule identify themselves as Palestinians. Though both halves of the Jordanian population are Arab, and are ethnically indistinguishable from one another, the Palestinians all came from the west side of the Jordan River, the Jordanians from the east. Palestinians by origin are mostly farmers, and have a long history of interaction with the West. Jordanians are desert people, largely Bedouin, with only recent exposure to Western influence. The Palestinians are refugees, or the children of refugees, of the successive wars with Israel. The Jordanians, never driven from their ancestral home, feel a less acute grievance toward Israel. To the naked eye it is impossible to tell a Palestinian from a Jordanian, but the Palestinian's heart lies in the land of his fathers to the west and the Jordanian is first and foremost loyal to King Hussein.

The feelings that the Palestinians, as a body, have for Hussein are ambivalent. They acknowledge that, in spite of the grandiose Arab proclamations of concern for Palestinians, he has been the only ruler to grant them the full rights of citizenship. He has taken Palestinians into his Government, as ministers and as personal advisers. He has provided Palestinians with the means to prosper, and Palestinians have both contributed and received much within Jordan's flourishing economy. He has invited Palestinians into his schools and university, allowed them to own land, entertained them in court circles, and yet he has never forced them to sacrifice their sentimental Palestinian priorities.

But neither has Hussein ever allowed them to forget that they are foreigners, living in Jordan at his sufferance. The real power of the state—the enforcement power exercised by army and police—remains almost exclusively in the hands of Jordanians. On the one occasion that Hussein felt threatened by the Palestinian flood, he stamped down fiercely. That was in 1970, when the Palestine Liberation Organization overreached in trying to use Jordan as a guerrilla base and, at the same time, turn Hussein's Government into a political pawn. In a merciless offensive—known to the Arabs as "Black September"—Hussein drove the P.L.O.'s forces from the country with substantial loss of life on both sides. Since then the Palestinians in Jordan have, as a practical matter, been forbidden from playing Palestinian politics. To this day, Jordan's police regularly crack down on any sign of Palestinian dissidence, and the Palestinians in the country naturally resent Hussein for it.

Hussein was reminded of Jordan's volatility last March, right after President Anwar el-Sadat and Prime Minister Menachem Begin, under President Carter's watchful eye, signed their peace treaty. Tempers flared, and a thousand Jordanian and Palestinian students took to flailing one another with fists and clubs on the campus of the University of Jordan here. The fighting started during a demonstration by Palestinians, who make up more than half of the 8,000-member student body. Their demand was that Hussein, who had already denounced the Camp David accords, stand even more closely with the hard-line positions of the P.L.O. The Jordanian students on the campus, irritated by the Palestinians' pushy attitude, undertook a counterdemonstration to convey a belief that Hussein's policies were already too biased toward the Palestinian cause. The issue was not Camp David, it should be noted, but the degree to which the Jordanian Government should submit to Palestinian pressure. Only a little provocation was required—provided, some say, by a handful of campus Communists—to transform the peaceful confrontation into a tumultuous riot.

Ever alert, Hussein's army rushed to the campus and put a stop to the fighting before anyone was seriously hurt. The university was closed for three days, and calm was restored.

Milton Viorst writes on politics and other subjects from Washington and abroad. His book, Fire in the Streets: America in the 1960's, *will be published by Simon & Schuster in January 1980.*

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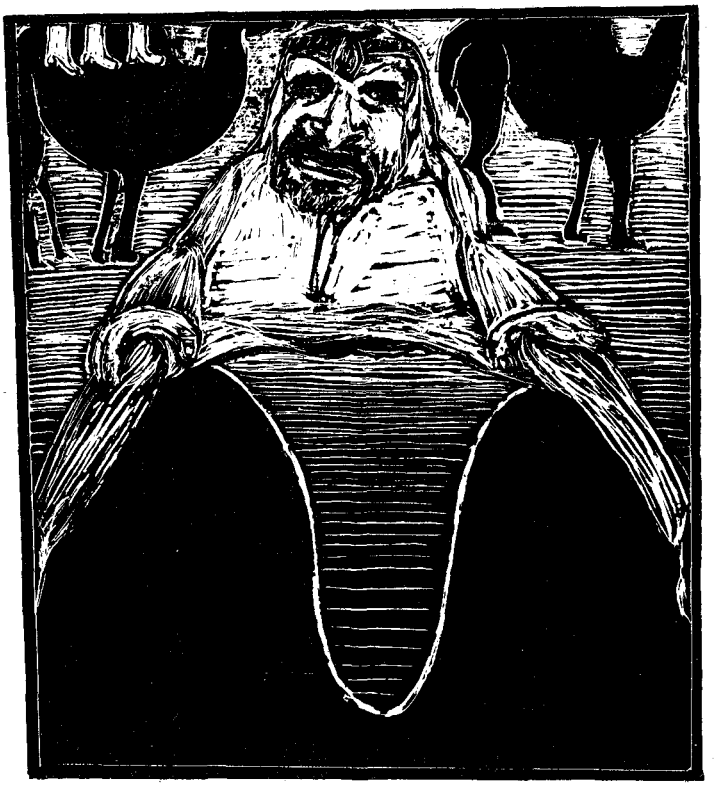
Nonetheless, to the King, the riot was a chill in the desert air. It was a reminder to Hussein that, after three decades of Middle Eastern conflict, the peace process might be more dangerous to his throne than any of the Israeli wars.

What Hussein told the American emissaries who called on him was that he could reconsider his opposition to Camp David only if he was supplied with the necessary arms to hold off his enemies. Like his Hashemite forebears who attached themselves to Britain, Hussein as the ruler of a small country surrounded by hostile neighbors understands the advantages of being the client of a major power. But the Americans said they could make no promises. Congress had to authorize all arms deliveries, Hussein was told, and Congress accepted the Israeli argument that any arms sent to Jordan might some day be used in a war on Israel. With some impatience, Hussein reminded the Americans that, alone among the Arab rulers, he had long been willing to conclude a peace with Israel. He pointed out that if he fought, it would be against Syria or Iraq, not Israel, and this summer the Carter Administration did, in fact, offer him a shipment of tanks, hedged with severe conditions. By then, Hussein had set his course, however, and a few tanks were not reward enough to make him change his mind.

Meanwhile, Iran was disintegrating, and every Moslem government was seeking to assess the meaning. Ruling elites reasoned that the message being conveyed to restless Arab masses was the prospect of success of popular rebellions. The impression of the moment, furthermore, was of an irresistible Islamic wave sweeping westward over the Arab world. Hussein responded by tightening up his internal security, and by embarking on a personal campaign of chanting public prayers and dedicating new mosques. Since then, the chaos in Iran seems to have discouraged thoughts of popular uprising, but Hussein still watches nervously for fresh signs of a threat to the status quo.

It was not difficult, then, for Hussein to tell the dismayed Americans that he would have nothing to do with their Camp David agreements. Juridically—at least from the Arab perspective—the matter of who was agent for the West Bank had been settled several years before. At the Arab summit in Rabat in 1974, a decision was reached that Jordan would no longer exercise the responsibility, and that the P.L.O. would henceforward be considered the West Bank's legitimate spokesman. The Arab world had never recognized Jordan's seizure of the West Bank during the war with Israel in 1948, nor had the Palestinians living there ever been happy under Jordan's rather oppressive administration. Even before the Rabat summit, Hussein had probably realized that he would encounter serious resistance among Arabs to reattaching the West Bank to Jordan. What upset him far more about the Rabat resolution than the West Bank clause was the implication that the P.L.O. would henceforth also speak for the Palestinians within Jordan. That contention Hussein rejected, with a warning to the P.L.O. that it had best not try any political organizing within his domain. But clearly he had reconciled himself to the permanent loss of the West Bank, even before Washington invited him into the negotiations.



Hussein's position—this voluntary renunciation of the West Bank—was never clearly understood by the United States, and even less by Israel. Since the Rabat summit, both Washington and Jerusalem have refused to attach much credibility to it. Kissinger promoted a "Jordanian solution" to the West Bank problem while he was in office, and Carter's whole premise in asking Hussein to join the Camp David process was that he would speak for the West Bank. The restoration of Jordanian rule on the West Bank remains the official position of the Israeli Labor Party, which was Israel's ruling party until 1977, and, according to the polls, will become the ruling party again in the next election. Both Washington and Jerusalem seemed to think that the "Jordanian solution" would somehow make the question of a Palestinian state disappear.

Recently, the Israeli Government has dangerously escalated this line, hinting openly that it might endorse a solution to the Palestinian problem that consisted of Hussein's being succeeded in Amman—by whatever means—by a Palestinian Government. In response to demands for a Palestinian state, Israel has for some time promoted the slogan that, "There already is a Palestinian state, and it is called Jordan." The contention is patently false, and Hussein's army will fight as energetically as it did in 1970 to make sure that Amman does not become a Palestinian capital. The Israeli argument is mischief, and any attempt to realize it would likely provoke a catastrophic civil war in Jordan, which would be no less risky to Israel than to the Arab world.

Jordan's principal preoccupation on the subject of the Palestinians is with the number that will leave if a Palestinian state is established on the West Bank and in the Gaza Strip. The university riot in March indicated why many Jordanians would be pleased to see a major migration of Palestin-

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ians westward. It is unfortunate, from the Jordanian perspective, that of the one and a quarter million Palestinians living in Jordan, probably not more than a third have a "home" to go back to, since Israel will still occupy three-fourths of all that was once Palestine. With or without homes, many Palestinians who have grown rich, or sunk roots, will also choose to remain. Hussein is not going to make it easier on the Palestinians by allowing them to retain dual citizenship, and each Palestinian will have to decide on his nationality for himself. But even if only a few hundred thousand take their belongings back over the river, Jordan will feel relief from the current pressure, and not regret their going.

For the first time since Black September, then, Hussein's interests seem not in conflict with the P.L.O.'s. In the past few months, the P.L.O.'s chief, Yasir Arafat, has three times visited Jordan, after a nine-year absence. Until the last of these visits, Hussein was still not ready to receive him in Amman, where the drama of their meeting would have resurrected many Jordanians' bitter memories of the 1970 period. Hussein's officers lost too many colleagues in Black September for such memories to fade quickly. Instead, Hussein received Arafat at a distant air base in the northern desert. But he also put out word that the P.L.O. is to be treated with greater sympathy, and the change in atmosphere in Jordan is readily discernible.

The P.L.O., which needs Hussein more than he needs the P.L.O., is naturally making more of the rapprochement than is the Jordanian Government. It has assigned one of its highest functionaries, Gen. Abdul-Razzak El-Yahya, as its representative in Amman. Yahya, director general of the P.L.O.'s political department, will alternate his service between Amman and the P.L.O. headquarters in Damascus.

Yahya acknowledged in an interview with me that he was not likely to be able to repair the damage between Hussein and the P.L.O. in a hurry. But he said his appointment, after the years of mutual snubs, signals the opening of a new era. Though P.L.O. hard-liners in Damascus have declared that Hussein must let the guerrilla forces back into Jordan to show his good intentions, I found Yahya much more soft-spoken. He told me the P.L.O. had learned an important lesson in dealing with Jordan, and has no intention of overreaching as it had done before.

The question that was left unanswered in my talks with Yahya, and with top officials of the Jordanian Government, was what strategy the Arabs intended to pursue as an alternative to Camp David. At the Arab summit in Baghdad shortly after the Camp David conference, a communiqué was issued which, between qualifiers, expressed an Arab readiness to negotiate with Israel on the basis of a West Bank-Gaza state. Even Iraq, among the hard-line powers, subscribed for the first time at Baghdad to the principle of a settlement with Israel. Yahya, while acknowledging that the P.L.O. sometimes conveys conflicting messages, told me that official policy had unquestionably shifted to acceptance of coexistence with Israel. Yet the Arab leadership has, as usual, been unable to agree on any positive course, and has shown no sign of submitting coherent proposals to substitute for the Camp David process.

As a practical matter, then, whatever the shift in attitude, it has not been matched by a departure from the old rejectionist policies. Begin's intransigence does not make the work of moderates in the Arab camp any easier, but neither has any courageous leadership appeared. It is still less dangerous for Arab chieftains to say no than yes, more comfortable to follow old channels than to exercise imagination, more assuring to denounce iconoclasm than to encourage initiative. Sadat alone has generated dynamism in the peacemaking process. His efforts may yet succeed, but they are more likely to fall before the combined resistance of implacable Israelis and intractable Arabs.

As for Hussein, he has left the door open a sliver, which befits an astute ruler. He continues to talk to the United States through the established diplomatic channels. He showed his good will when he cooperated with the United States to help put down the radicals in the war in Yemen. In his public statements, he chides Washington for shortsightedness rather than accusing it of malice. Even in rejecting a role in the Camp David talks, his words contain a hint of equivocation.

The hint is that if the Begin-Sadat negotiations over the West Bank show any true prospect of realizing Palestinian self-determination, he might be willing to lend them his support. But, with good reason, he is hardly optimistic. He recognizes that, whatever the understanding reached by Begin and Sadat, the talks are meaningless without the P.L.O., whose authority in the West Bank supersedes his. And he calculates that the United States, once his patron, cannot offer him nearly enough to make him endorse what he believes will, with or without him, inevitably fail. □

Subsidy

(Continued From Front Cover)

Group (P.I.R.G.) found that 67 percent of the $18.1 billion in tax-free financing allocated during the 1960s and 1970s went to firms with more than 5,000 employees; 53 percent was issued to companies with more than $1 billion in sales. These lures will drain the Federal treasury of $21.1 billion in tax revenues over the next ten years, while wealthy investors avoid paying taxes and giant companies siphon the majority of the proceeds. Among the thirty-three firms receiving more than $100 million in tax-free financing are Dow Chemical, Trans World Airlines, Atlantic Richfield and Georgia-Pacific. These thirty-three firms secured fully one third of all tax-free financing issued. In 1978, fifteen K-Mart shopping centers in ten states received tax-free financing

Ralph Nader, consumer advocate, is co-author of The Menace of Atomic Energy *(W. W. Norton). Jerry Jacobs, a graduate student at Harvard University, is the author of a Public Interest Research Group report entitled "Bidding for Business."*

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assistance. The largest corporations in the country are the real beneficiaries of this welfare by the states.

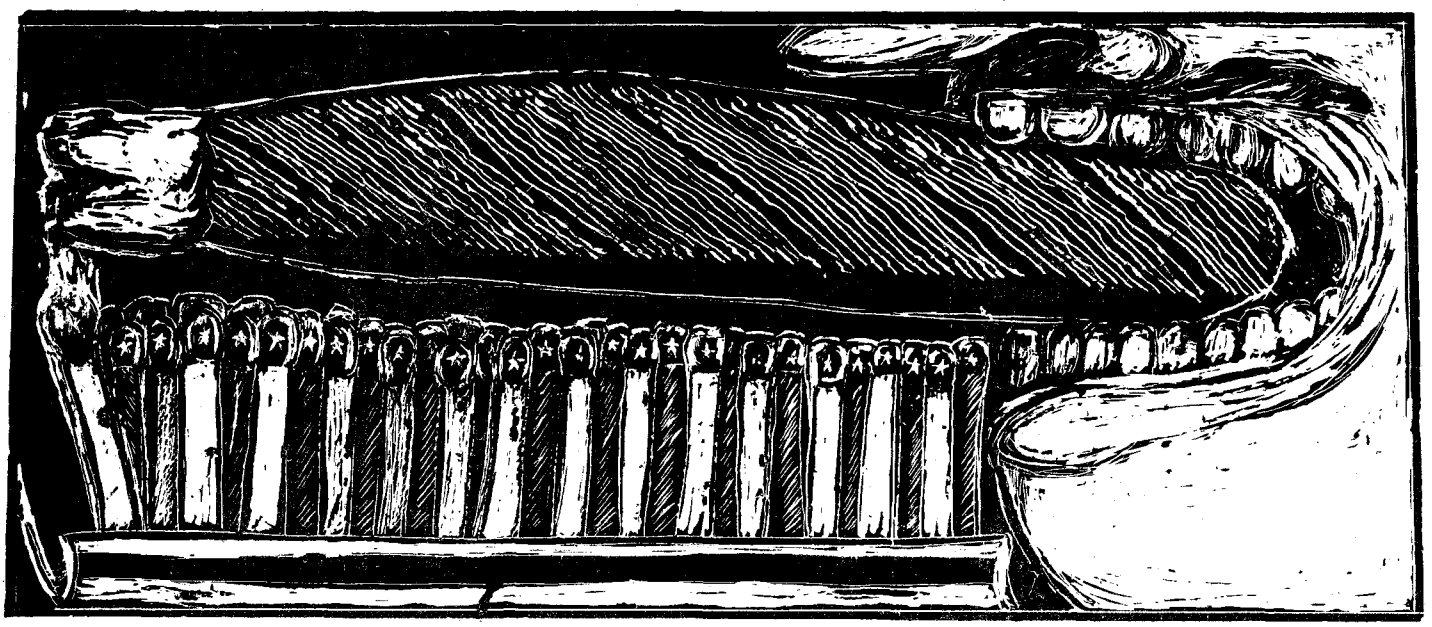
What is more, as executives of recipient corporations quite frankly admit, these subsidies have little influence over a company's decision to move to the place offering them. John Godfried, manager of investor relations for the Great Northern Nekoosa Corporation, for example, told the P.I.R.G. researchers, "I don't think the availability of these mechanisms has had much influence on the location of our investments, particularly since most places offer fairly similar arrangements." Arthur Harrigan, executive vice president for finance with the International Paper Company, said, "I am not aware of any attempt to locate in a state where the lack of pollution-control financing altered our investment plans." Even though such subsidies had no apparent effect, Great Northern has received more than $120 million in tax-free financing and International Paper $145 million.

The distribution of state and local tax abatements parallels that of direct subsidies, although nationwide data on tax abatements are not available. The Marriot Corporation, for example, recently obtained a 100 percent tax abatement from Ulster County in upstate New York, and is now pressing for a 100 percent abatement from local and school taxes as well. Marriot executives pointedly brought up the availability of tax abatements in nearby Connecticut when local officials were exhibiting reluctance to go along with the deal. Chairman Murphy's G.M. applied last December for a 50 percent tax break on a $100 million expansion of a Cadillac engine-parts plant in Livonia, Michigan. The tax abatement saved G.M. some $24 million over twelve years, in return for making an investment that many critics insist it would have made in any case. G.M. effectively wielded the threat of moving to generate support among local officials and workers fearful of losing their jobs. G.M. has also received $8 million in tax-free financing from four states, an amount that cannot possibly make a difference to G.M. but would make a crucial difference to a number of small firms. On a larger scale, G.M. recently announced plans to build a production facility in Austria, with the Austrian Government paying fully one third of all construction and start-up costs. (G.M. had been planning to expand its European operations for some time.)

In the past two years, New York City has granted tax abatements to such needy recipients as CBS, ABC, Barclays Bank and, most recently, to the Hilton Hotel Company—all in the face of the biggest downtown office boom in decades. New York City must lay off teachers and policemen and close numerous hospitals while it finances the plush offices of the corporate elite. Many cities, including Detroit, St. Louis and Dayton, Ohio, also offer tax come-ons. Twenty-seven states currently allow municipalities to grant tax abatements on new industrial facilities for twenty years.

Studies of businesses' decisions to relocate show that taxes come well behind markets, raw materials, transportation and, more recently, energy as the determinants. John Godfried explained, "Our decisions on where to locate bulk pulp and paper plants will continue to be based on the fundamentals of the business and not on public inducements. We won't be building production facilities in the desert in Arizona no matter what is offered by local officials there, because in the desert there are no trees."

State officials themselves often recognize that the money they offer as bait is not going to make any difference. George Kariotis, secretary of economic development and manpower affairs in Massachusetts, conceded, "The actual number of dollars is not that important. . . . It's the image we're after. We want to fly a signal flag to the country." Advertising is thus an important component of the interstate pro-business sweepstakes. A recent issue of *Fortune* magazine included advertisements of nineteen states and cities designed to lure new investment. Rhode Island's ad alone ran some nineteen pages. Slogans abound, including "Texas Is Number One for Business" and "If It's Profits You Want, NEW JERSEY'S GOT IT." To back up this kind of hard sell, officials must be able to offer substantial cash



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lures. The image-building by states is thus an added financial burden for the taxpayers, and its net result is a lighter one for the large companies that are best able to shoulder it.

When subsidies offered by competing states are identical, these special deals obviously will play no role in a corporation's decision to locate. But in order to be a front-runner in the race to attract new firms, a state must offer assistance above the going rate; this prods other states to do the same in order to catch up. And so the base-level subsidy available everywhere goes up. This is a windfall for businesses, since they get a subsidy for making an investment they were going to make anyway. Any state that tries to climb off this subsidy escalator risks appearing inhospitable to business.

The full cost to the taxpayers of current state and local subsidization of business is impossible to estimate, for the states themselves have no complete accounting of the costs involved. Still, it is unquestionably large and growing. The Conway Corporation, a firm that specializes in assisting corporations in relocating, annually publishes a checklist of incentives available in each state in its journal *Industrial Development*. The list has grown to the point where sixty-five different subsidies are monitored, ranging from various forms of site-selection assistance through a broad array of tax breaks, to low-cost loans, tax-free financing, help in training employees and a host of others. The proliferation of subsidies in recent years has been such that the checklist is now meaningless: virtually all the boxes are checked off.

The P.I.R.G. study surveyed the fifty state economic development agencies, and found general agreement that the competition to attract industry was becoming, if anything, more heated. The majority admitted that neighboring states were their chief rivals; each state kept close tabs on its competitors' activities. Despite the unbridled competition, state economic development officials strongly oppose any curbs on subsidies. Richard Kotenbeutel of the Wisconsin Department of Business Development declared, "Let competition determine what inducements are offered." Windell Adams of the Arkansas Industrial Development Commission maintained, "Incentives and tax breaks between states are indeed becoming competitive, and that's great for business. Competition between states is healthy for business, and what is healthy for business is great for the nation." James Garver of the West Virginia Governor's Office of Economic and Community Development concluded, "Any legal means of attracting industry should be employed." These officials are competing with one another to see who can give away more of the taxpayers' money to giant corporations, which is not the kind of competition this country's enterprise system originally envisioned. And there is no stopping point—the subsidy snowball will simply grow and grow. The logical end result would be the government underwriting all corporate risk-taking.

Nor do the firms receiving state subsidies have to demonstrate financial need in many cases—unlike noncorporate welfare recipients. Even where a determination of need is required by law, the large corporation holds all the cards. It has the only relevant data concerning the cost and feasibility of the investment, and can usually make a convincing case on paper that public assistance is necessary. The firm will insist on strict confidentiality, which means that checking the data will be extremely difficult. In the absence of taxpayer-appeal rights, the public will be unable to challenge the corporation's receipt of public welfare. Need is typically defined as whether or not the assistance is necessary for the project, and ignores the overall profitability of the firm.

Thus, the majority of projects are routinely approved, and some of the most profitable firms receive enormous public subsidies. New York City, for example, approved the first 129 applicants for tax abatements without rejecting a single one. The Boston Finance Commission, an independent agency, reported recently that Boston has been issuing very costly tax breaks to firms without even the most rudimentary checking of the companies' financial statements, audits that would have saved the city millions in lost taxes. Many state economic development agencies have no idea what the approval rate in their state has actually been.

For pollution-control financing, the firm's need is not even considered. Company officials complain that pollution-control costs are imposed on industry by the government and therefore it is only fair that government help to cushion the cost of retrofitting plants. Yet these costs are not created by the government; they stem directly from the industrial processes used and are costs that the afflicted public has borne for decades in filthy water and polluted air. Companies that have grown wealthy and powerful while making the public bear the cost of pollution diseases do not deserve public welfare, especially if their firms are growing and their profits are higher than ever. Among the chief recipients of tax-free pollution-control financing are Allied Chemical, Armco Steel, Atlantic Richfield, Bethlehem Steel, Boise Cascade, Dow Chemical, Georgia-Pacific, Inland Steel, International Paper, Monsanto, Reynolds Metals, Standard Oil of Ohio, Union Carbide and U.S. Steel—all among the top 120 firms in net profits, and the majority within the top 100 on most indicators of financial well-being. The companies even complain that only about one half of true pollution-control costs are covered.

States should recognize the self-defeating nature of this ruinous corporate-subsidy competition and make interstate compacts to stop it. The unfettered use of tax abatements for large corporations should be halted immediately, before a situation develops in which no major corporation will consider expansion without governmentab assistance. Further, the Federal Government should eliminate the use of tax-free financing for industrial development and pollution control. Not only do such handouts debilitate the economy, they also, by their backdoor financing technique, escape public accountability and review. The taxpayer is given no prospect of these subsidies being repaid from future corporate profits. Economists speaking of the "corporate state" or "corporate socialism" need look no further than these private welfare systems for big business for illustrations. Both political democracy and economic equity are sacrificed by this booming state business of bidding for business. □

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The New Schooling of America

LEONARD KRIEGEL

THE GREAT AMERICAN WRITING BLOCK: Causes and Cures of the New Illiteracy. *By Thomas C. Wheeler. Viking Press. 189 pp. $8.95.*

TEACHING AS A CONSERVING ACTIVITY. *By Neil Postman. Delacorte Press. 244 pp. $9.95.*

American teachers are today engaged in a guerrilla war with their own society. And it is a war they are losing. At present, the best they can envision is to create some of the terms of their surrender. For that reason alone, these two books are welcome. Both Wheeler's impassioned rhetoric and Postman's more analytical probing suggest that teaching can still be responsible, intelligent and creative enough to change lives meaningfully.

Thomas Wheeler addresses himself to the sources of illiteracy in our culture, chief among them the cult of "objective" testing. He takes writing seriously enough to insist that to be a responsible adult means that one should read with understanding and write with clarity. To comprehend how radical such an idea now seems, one need only analyze what passes for writing and speech in American life. I am not as certain as Wheeler that, "If we honored writing, we would honor ourselves"—but we might then at least understand what it is we fail to honor. The quality of our writing has deteriorated almost as rapidly as the quality of our speech. Compare the writing in any magazine today with the writing in any issue of the same magazine chosen at random in 1949; compare Truman's language with Carter's; compare Red Barber's sportscasts with Howard Cosell's. One is struck by the deterioration in the quality of specific images, the tired metaphors, the media orchestrations, the lack of forthrightness in the name of (God help us!) "telling it like it is."

Wheeler captures the disease in the two best chapters in his book, "The Failure of Objective Testing" and "Getting Over," but his "cure" seems to amount to little more than having students write more papers in high school. "Getting Over" would have made George Orwell proud, and Orwell is among Wheeler's heroes. But as timely and perceptive as his indictment is, what Wheeler apparently takes as ghetto creativity seems to me the result of his romanticism and his students' constricted vision. He quotes a black student's paragraph about the singer James Brown with great approval. For me, and I suspect for Postman, that paragraph is a cliché-ridden indictment of *relevant* education, and in citing it, Wheeler is betraying the intellectual trust of that student. A student in college should be forced to emerge from his provincialism. In a writer like Norman Mailer, it is excusable to romanticize street life; in a teacher, it is liberal paternalism. If one has himself had any contact with the streets, what is obvious is that never before—not at least in my memory—has street life in New York been so savagely inarticulate. Wheeler is superb when he attacks the horrors of "objective testing," but his romantic view of the language of the streets combined with his patent eagerness to blame the high schools for his students' deficiencies mark the limitations of his own critical vision.

Neil Postman is a far less romantic critic of education. He takes students seriously enough to engage them in combat. He is even willing to blame the student from that overly analyzed ghetto when that student does not make the requisite effort for change. Postman has become an educational conservative since the publication of a book he coauthored in 1967, *Teaching as a Subversive Activity.* He is now concerned with defining education's limits and possibilities. And I find this new book even more refreshing than its predecessors.

However "old-fashioned" Postman's view of education is, those of us who teach are going to have to confront it honestly. We are in retreat, but it is a retreat in which we may yet salvage much of what education has helped to create. For education in the United States has been more democratic than undemocratic, more successful than unsuccessful. Our schools remain a potentially powerful force, as Postman insists, against "television and other electronic media," which have had a singularly disastrous effect upon literacy, rationality and imaginative vitality (as opposed to soporific fantasy). We can probably do nothing to change what Postman calls "the TV curriculum"—like oil in Saudi Arabia, it is simply too profitable and there is too much of it—other than to strengthen the countervailing force of the school curriculum.

Like Wheeler, Postman recognizes that in a culture which measures success quantitatively, test scores become an end in themselves. TV newscasters focus our attention on reading scores, and all solutions to educational problems are viewed as quantitative. The quest is not for literacy but for structures which will measure success. After all, literacy is potentially dangerous; it connotes the ability not only to read but to understand, to analyze. If school is a countervailing curriculum, then literacy cannot be charted—not by the E.T.S. and not by Rhody McCoy. Nor is its function to reinforce the vocabulary of *Mod Squad* or even of *Sesame Street* or *Watch Your Mouth.* (Postman believes as I do that such programs are still part of the TV curriculum with which the school curriculum must war.)

Where Postman and Wheeler are at odds is in their view of the student. "A young man whose range of response to that which displeases him is located somewhere between the word 'bullshit' and some other unoriginal obscenity does not merely have a vocabulary deficiency," Postman writes, "he has a perception deficiency." For Postman, the limited response should be pressed by formal education to get outside the student's restrictions; for Wheeler, the teacher's task is to help the student adjust to the formal culture through "becoming very much himself." Neither fails to take the student seriously.

If Wheeler tends to romanticize street culture, he is forthright and vigorous in his defense of the open admissions program at the City University of New York. Its successes seem to him, as they seem to me, more persuasive a reality than its failures. Unfortunately, he is

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sometimes a missionary to the converted. His chapter entitled "American Literature and Writing" might have made great sense in 1930. It is simply dated now. I wish he would introduce me to one of those "schoolmarms" who "chides" the dialect of Twain and Faulkner. And for someone who has invested so much in the meaning of language, he can generalize himself right out of the ballpark. "Surpassing ethnicity, time and place, American literature speaks of American situations." And Egyptian literature undoubtedly speaks of Egyptian situations, while Icelandic literature speaks of Icelandic situations, etc.

Postman is both less given to hyperbole and less relevant. As one whose most relevant act as a college freshman was reading the Mentor edition of Homer's *Iliad*, I sympathize wholeheartedly. And here we see the crux of the argument I have somewhat unfairly posed by reviewing these books together. Our question is not who is to be educated but what they are to be educated in. From kindergarten to graduate school, American education suffers from our inability to define purpose. What do we mean by that verb, *to educate*? What ideas deserve to be taught? Do we not betray both our students and the idea of education if we not only permit but encourage their provincialism? At how many colleges and universities in this country has the Greening of America been replaced by the New Schooling of America, with its plethora of nonsensical courses parading under the guise of education? At how many colleges in this country is it today possible to major in literature and not read a book written before the twentieth century?

Neil Postman is, I believe, correct when he points out that our task is to define what we should not be expected to do in order to define what we can do. Schools cannot be used as a dumping ground for the nation's social and political failures in the name of relevant education; [illegible] cure poverty; schools should not be expected to feed children properly, instruct them in sexual mores, inform them about their ethnic or religious heritage, to give them a sense of wholeness. School, at any level, is a place for intellectual inquiry. Its purpose is to teach one to think and to give one ideas to think about.

Neil Postman's style is at times awkward and Thomas Wheeler's tendency toward hyperbole might occasionally irritate a reader. But I wish that I could give a copy of each of these books to teachers throughout this country. For each of these authors has addressed himself to real educational problems, and each recognizes that, in teaching as in learning, the American love affair with the world of NOW must give way to consistent and disciplined purpose. □

The Whole Earth Novel

RICHARD GILMAN

What is the point at this late date of writing against John Irving's *The World According to Garp?* The book moves along on its triumphant course, the T-shirts and bumper stickers testifying to hype, of course, but also to some genuine enthusiasm. Why demur, why be a spoilsport? Well, I think that what might justify some remarks on the novel according to Irving is that in the current debate about fiction, *Garp*'s populism has been pointed out but nobody seems to have examined closely the book's really ingenious methods and structure of appeal. There has to be a means of accounting for the rather extraordinary vogue of this book, a vogue that goes well beyond that of even the most successful serious novels. I think it lies in the fact that it isn't a serious novel at all, if by that we mean, as I think there is still point in doing, fiction which *earns* its imaginative reality and which truly changes consciousness instead of flattering it.

The World According to Garp is a model of its kind, and its kind is a seductive imitation of literary seriousness, an elegantly perpetrated if not wholly deliberate hoax. Irving's book is an extremely instructive example of how to have it all ways, an impressive feat of having one's literary cake while eating off commercial success. What makes for its éclat, I'm sure, is that it's at the same time "tragic" and comic, "intellectual" and anti-intellectual, "austere" and folksy, "artistic" and informal, profound-seeming and lighthearted, above all soft while appearing hard, which is the chief secret of literary popularity as opposed to the narrow and obvious allure of straightforward kitsch. Moreover, the book is self-congratulatory in a shameless but clever way, coaxing or encouraging its readers to add their own congratulations, like a Russian ballet company leading its audience in applause.

For a novel of this sort to be so satisfying to so many readers it has to do several related things. First, it has to answer, or rather offer an answer to, the fundamental question of what our attitude ought to be toward the world, and then it has to afford a sense of superiority to ordinary experience as well as to ordinary interpretations of experience. In other words, it has to work as literature while not appearing to be literature at all but life, in much the same way certain politicians triumph by presenting themselves as outside politics.

Now the search for attitudes and the need to feel superior to circumstances, at least morally, are most often or most pressingly found among the young, and clearly *Garp* appeals heavily, if by no means exclusively, to younger readers. In this as in other superficial ways it resembles both *The Catcher in the Rye* and *Catch-22*, two of its predecessors as cult novels, though they are, of course, more than that and immeasurably better books than *Garp*.

In their different ways all three offer the reader a critique of the world as run by *others*, a sense of disjunction and strife between organized society and the sensitive observer, and recommendations, more or less subtle, for dealing with the situation. But whereas Salinger's and Heller's fictions proceed from imaginations wittier and more responsible than the life they describe, are mostly free of sentimentality and recommend only that we keep our eyes open, Irving's book is ruled by a pervasive although usually disguised sentimentality and is marked by wishfulness rather than tough vision. Beneath its modish irreverence and boyish charm it feels strangely calculated, animated by a desire, of the kind inculcated at certain summer schools for writers, to please its readers by *speaking from the heart*, thus confirming them in their romantic hunger for a model of the *truth* and offering them the model.

To hold the eye of both the semi-sophisticated and the earnestly

Richard Gilman will be contributing a monthly column on cultural matters to The Nation.

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naïve—*Garp*'s two classes of readership—such a model naturally has to have weaknesses and flaws, nothing extreme to be sure, but in fact ultimately almost lovable, since they are all really excesses of virtues. Garp himself possesses these undisturbing vices in disarming abundance. He is given to exaggeration, to making "everything baroque."[5] He makes "people too mad" by doing his own thing. His actions are often "weird," which is to say charmingly inappropriate. He has writer's block, a great comfort to the many would-be or struggling young writers among the readers. He doubts his own powers (while somehow perpetually exhibiting them), is short with his inferiors and unable to make small talk. He gets the clap from a prostitute, lusts after baby sitters and cheats, once or twice only—a deft humanizing touch—on his wife. A big shambling amiable bear, he has no trouble winning forgiveness for the "mess" he says he makes of things.

Without these "defects" Garp might be too much for all but the most ardent hagiolater to swallow. For, oh my, how virtuous he is, virtuous in the most *au courant* way, by which I mean that he's just the right chic combination of self-deprecation, egoism, mild neurosis and strength in the crunch and, more important, that his goodness displays itself in relation to nearly all our current problems, all the "relevant" issues of personality, ego, "life style," sexual warfare, communality and social responsibility that oppress us all, but most self-consciously and vocally afflict youthful seekers after a *way*. Garp is a rough-edged paragon, an eagle scout of the modern temper, busily escorting troubled consciousnesses across the perilous two-way streets of our dilemmas.

To be done in needlepoint or typed on cards for one's moral bulletin-board:

> Garp believed that laughter was related to sympathy, which we were always needing more of.
>
> Perhaps rape's offensiveness to Garp was that it was an act that disgusted him with himself—with his own very own instincts, which were otherwise so unassailable. He never felt like raping anyone; but rape, Garp thought, made men feel guilt by association.
>
> Thus Garp's new creed: capitalize not on the emotions of others.
>
> Crazy people made him crazy. It was as if he personally resented them giving in to madness—in part because he so frequently labored to behave sanely. When some people gave up the labor of sanity, or failed at it, Garp suspected them of not trying hard enough.
>
> In the world according to Garp . . . we are obligated to remember everything.
>
> There are some things about cooking, like writing, that you don't hurry, Garp knew, and he never hurried them.
>
> If Garp could have been granted one vast and naïve wish, it would have been that he could make the world *safe*. For children and for grownups. The world struck Garp as unnecessarily perilous for both.

Garp is a breviary of such *Whole Earth* mottoes, attitudes and ethical prescriptions, the cumulative effect of which is irresistible, if, that is to say, you are sensitive and *concerned* and have been searching in fiction for an offbeat protagonist who is a good deal better than you but still within your capacity to emulate. The kind of thing *Garp*'s admirers think about the book—many reviewers have said it—must go rather like this: with all the downbeat, depressing fiction we've been getting, what a pleasure to come upon something *positive*, a novel that doesn't preach to you but gives you encouragement by showing what's possible if you're *true to yourself*. "Vitality" must be the word that comes to the approving reader's lips; Garp is vital, he's *alive*. In fact, as a character calls him in one of the book's less felicitous phrases, he's "Captain Energy."

But that calls for some strategic thinking. Such a character runs the risk of seeming to have it too good, to be exempt from the blows to which the rest of us are subject. And so Irving weaves through the narrative various strains of catastrophe, to balance things, to make it all more "lifelike." This is the only way I can interpret the arbitrary and implausible violence of the novel. The tactic is presumably designed to protect against sentimentality, but the result is that the book's fundamental insincerity is demonstrated all the more. For sentimentality is precisely insincerity: you do not feel what you say you do.

There is another, related aspect to sentimentality which *Garp* displays. The best definition of it I know is that of Joyce, who called it "unearned emotion." And just as there is a sentimen-

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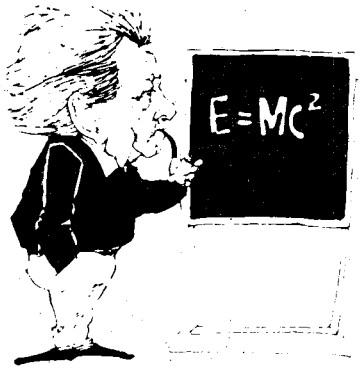
tality of happiness in literature as well as life, a felicity that hasn't been earned (the point is experiential, not moral), so too there's a sentimentality of disaster, an arbitrary, ungrounded suffering. The various calamities that afflict Garp and his family, culminating in his murder at 33—wasn't there another rather important spiritual figure who was killed at that age?—are of this kind. In every detail they feel dragooned, hokey, plotted, rather than desperately imagined.

For the reader prepared to be taken in, however, the "black" side of the book will doubtless seem a mark of its completeness, the tragic complement to its comic-heroic substance. But *Garp* isn't true tragicomedy; in that mode the two perspectives interpenetrate, informing each other and making a single vision, but here they lie side by side, "fun" on the one hand, grimness on the other. And that is what Irving does throughout: balances, juggles, has it all ways. His hero, setting the tone, is at the same time a wrestler and a writer: *mens sana in corpore sano* with a vengeance.

This process of playing to diverse and even contradictory impulses, this artful, planned ambivalence, is perhaps most blatant and self-condemning in relation to Garp as a writer, Irving's alter ego. "Garp," Irving writes, "would be irritated all his life by his belief that literature was a luxury item; he desired for it to be more basic—yet he hated it when it was." And again: "He felt disgusted that he had written the kind of book that could attract people in droves." But obviously not disgusted enough. "It feels so true," a character says of one of Garp's novels, at a point where Garp and Irving have become nearly indistinguishable.

There is a line early in *The World According to Garp* that gives the only clue to its success one really needs: "A part of adolescence is feeling that there's no one else around who's enough like yourself to understand you." For Irving's adolescent enthusiasts of all ages, there *is* someone around. It's Irving/Garp, the former alive at 37 or so, the latter dead at 33, but emotionally and intellectually both fixed forever at 17. □

LET'S MAKE IT NUCLEAR



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Where Ego Was...

JAMES SLOAN ALLEN

THE SADEIAN WOMAN: And the Ideology of Pornography. *By Angela Carter. Pantheon Books. 160 pp. $7.95.*

Pornography is the elemental entertainment, for it addresses instinctual desires directly through pleasurable images requiring a minimum of cultural comprehension and intellectual response. Now that entertainment, with the immediate appeal of simplistic imagery, has become the model of culture, and instinctual freedom has become the essence of psychological health, we should expect pornography to flourish and to be studied. And we should not be surprised that an author of pornography should study it. Angela Carter, author of such pornographic fiction as *The Passion of the New Eve* and *War of Dreams*, here justifies her own practice by distinguishing good pornography from bad.

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Bad pornography, she says, tries too hard to entertain by dwelling exclusively on the anatomy of sex, with the result that it creates an evil myth or ideology of sex abstracted from history, society and psychology. This ideology commits multiple sins: it reduces human beings to sexual organs, denies the social character of sex, and induces the belief that human nature is forever locked in traditional patterns. And because pornography usually serves men, its pernicious ideology almost always victimizes women, whom it represents as organs of passivity awaiting the male's phallic aggressions.

Against this vulgar pornography of fantasy and simplification, Angela Carter sets the "moral pornographer," a "terrorist of the imagination," who seeks less to entertain than to demystify sex and to unmask and thereby subvert an oppressive social order. The Marquis de Sade may seem an odd model of the moral pornographer, but that is how Angela Carter sees him. De Sade's pornography, she says, pierced the myth of sex as a natural and benign pleasure to display the inequities and cruelty underlying sexual and social relations in the *ancien régime*. At the same time, he exhibited sexual freedom as a form of social equality available to all. In his revolutionary tract, "Yet Another Effort Frenchmen If You Would Become Republicans" (which forms a large part of *Philosophy in the Bedroom*), for example, he tells Frenchmen that their labors toward political equality will avail nothing without the emancipation of instincts from the elitist bonds of traditional institutions and manners. "Europe awaits her deliverance from *scepter* and *censer* alike," he writes, because both state and church, privilege and morality are to blame for "the atrocities of the *ancien régime*." Little wonder that modernists from Baudelaire onward, hostile as they have been to traditions and restraints, discovered in de Sade a courageous cultural revolutionary.

Angela Carter shares this admiration as she searches de Sade's renderings of women for ways of subverting today's reigning oppression: "the contempt for women that distorts our culture." De Sade's women, she discovers, are either victims or sadistic libertines like his men. The victims have their complete embodiment in Justine, anti-heroine of *Justine, or the Misfortunes of Virtue* and prototype of all "mythically suffer-

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ing blondes" down to Hollywood's ill-fated starlets whose sexual allure is united to an unvanquishable naïveté, making them helplessly vulnerable and destined to degradation, masochism and destruction. Justine's implacable virtue thwarts sexual desire and insures her a miserable and futile life of abuse at everyone's hands—and other parts—culminating in the lightning bolt that snuffs her out.

The more truly Sadeian woman is Justine's sister, Juliette, heroine of *Juliette, or the Prosperities of Vice,* who exploits her sexual attractiveness to worldly advantage. Tough-minded, self-reliant and amoral, she spurns virtue and the mystiques of femininity and motherhood, and is as erotically gluttonous as any male. Juliette and the many others of her type prove to Angela Carter that despite de Sade's obvious misogyny, he "put pornography in the service of women" by allowing women a sexuality and will unconditioned by culture. Although these women could not truly subvert society, Carter says, they represent the subversion of woman's traditional place in it by demolishing the oppressive—or, better, repressive—myths of woman as virgin, mother or goddess. This "final secularization of mankind," as Carter calls the ultimate female release, equalizes men and women and makes them sexually interchangeable: in de Sade's sexual circus, master and slave, the whipper and whipped freely exchange places to experience the same exquisite pains and delights.

That Carter should equate female emancipation with a kind of androgyny is not incidental to her argument. For just as she opposes the ideology of vulgar pornography as evil mythologizing, so she denies any elemental psychosexual division between men and women: "flesh comes to us out of history," she says (betraying an unstated affinity with Michel Foucault), which means culture determines sex, sex does not determine culture, and that female emancipation will come with the death of repressive cultural myths. As feminist ideology goes, this is a rather moderate position. Were Carter more radical—like, say, Shulamith Firestone or Adrienne Rich or such influential French feminists as Hélène Cixous and Luce Irigaray—she would not reduce sex to history and far from welcoming, would smartly recoil from de Sade's attribution to women of his own extravagant desires. And despite the intelligence of her explications and argument, which deserve praise, this moderate, historicist and androgynous position leads her to misjudge de Sade.

By merging the sexes, and assigning their conflicts to culture, Carter dims the horror of de Sade's writings, which arises from the possibility that de Sade exemplifies an unbounded male sexuality of erotic aggression and domination. His licentious women are probably not women at all, or even androgynous beings, but rather the fantasies of a sexually obsessed male. Nor was culture alone the source of such Sadeian oddities as his rationale for rape, set forth in "Yet Another Effort Frenchmen . . .": "We have the right to decree laws that compel woman to yield to the flames of him who would have her. . . . Indeed! has Nature not proven that we have that right by bestowing upon us the strength needed to bend women to our will?" And what of de Sade's angry defamation of every institution, custom and idea that lends moral import to experience and restraint to desires? Has any female ever carried her erotic appetites to such ends?

Carter's historicist feminism and taste for cultural intransigence have led her to mythologize de Sade himself. However much he might have exemplified the revolutionary spirit of his times, without a distinctly male sexuality, de Sade is not de Sade. And lest we idealize his revolutionary message, we should remember that de Sade's anthropology removed man not just from an oppressive culture but from culture altogether, and from humanity as well.

In summoning pornography to the service of female emancipation, Angela Carter has chosen a literary model who identified freedom with the most brutish of animal instincts—encompassing murder no less than lust. This freedom negates the autonomy for which the cultural revolutions of the past two centuries have been waged: self-determination and self-mastery. Reversing Freud's psychological definition of this autonomy, de Sade promised: where ego was there shall id be; here man becomes the slave not of other men but of his own irrational desires. And by dismissing as *mere* myth pornographic entertainment, psychosexual differences and traditional morality, Carter undercuts all reasons for judging de Sade wrong. She forgets that all moral ideals, including her own emancipatory hopes, belong more to myth than to history or nature. □

FILMS

ROBERT HATCH

The wonder is that Werner Herzog has taken so long to get around to Georg Büchner's *Woyzeck*. This nineteenth-century parable of a man caged in the system, couched in moral absolutes, implicitly revolutionary, and expressed in deeds of violence, might have been written with the German director in mind. Having made *Aguirre, the Wrath of God*, Herzog turns now to *Woyzeck*, a child of God. Klaus Kinski plays the title role in both films.

A barber become soldier, Woyzeck is introduced as a puppet, dancing with galvanic alacrity on the twitching strings of authority. The drillmaster torments him with punitive exercises; the company doctor, an age-of-reason zealot, has put him on a strict diet of peas, to determine whether this abominable fare produces mental aberrations; even the Captain, whom Woyzeck shaves and who rather likes the man, regrets that he

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lacks morals—by which he seems to mean reflective intelligence. And to that, Woyzeck replies that a penniless man has no time for morals. What he does have, whether from peas, penury or the disregard of his associates, is an ability to hear voices, threatening voices from beneath the earth.

Woyzeck lives with Marie; they have a child. She is a good woman but more than a little melancholy in her straitened life with her driven mate. One day she succumbs to the fancy of the handsome drum major. The doctor, ever eagerly testing, hints to Woyzeck of the affair, to see what symptoms of distress the suggestion may produce. Woyzeck confronts his rival, who scornfully wrestles him to the floor. He buys a knife, drags Marie to a pond at the edge of a wood and there, in the light of a rising, blood-red moon, stabs her to death.

Woyzeck, which Büchner left unfinished when he died at the age of 23, is of course famous in Alban Berg's operatic adaptation, and today its naked emotion, its black-and-white good against evil are perhaps best suited to opera. But it happens that Herzog has an operatic imagination and he has found in Kinski an actor who, save that he does not sing, is very much an opera star. His face expresses the horrors of a man possessed; his huge mouth breaks open into a tragic mask; his gestures are extravagant, his lamentations animal howls. Kinski, under Herzog's direction, works dangerously close to absurdity; he does not enjoy the dignity of distance that music gives to opera singers. Yet he prevails. He holds your respect, facing down your sense of the ridiculous, the way fine Japanese actors can leap about in toadlike vaults of rage, brandishing their samurai swords and emitting hysterical squeals, without provoking laughter. Kinski did this memorably in the grandiose romanticism of *Aguirre*, and now again in *Woyzeck*, the tale of a good fellow (as the Captain calls him) beset by the demons of power, patronizing curiosity, brute strength and his own fevered imaginings.

The supporting players are as one-dimensional, and as vivid, as the humors of the old moralities. Willy Semmelrogge, the doctor, reminded me of Caligari; Josef Bierbichler's drum major is Eros in jackboots; Eva Mattes, as Marie, is indeed Eve, utterly desirable, completely vulnerable and touching. Above all, Herzog has sustained the simplicity and purity of *Woyzeck*; his sense of those absolutes is very sure.

Three organizations representing some 1,000 rabbis in the United States and Canada are up in arms against *Life of Brian*. According to *The New York Times*, they term this latest exercise in irreverence from the Monty Python factory "blasphemous," "grievously insulting" and "a crime against religion." For reasons to be given below, I am myself not much taken with Monty Python's lampooning approach to various supreme occasions of legend and Scripture, but immediately on reading the above grave charges, and particularly when I learned that Rabbi B. Hecht, of the Rabbinical Alliance of America, feared that the film might enrage audiences to the point of violence, I determined to see it. Any picture capable of making its viewers riot is worth a look, I think, and unhappily for the rabbis' peace of mind, the public probably feels much as I do.

Blasphemous the film certainly is, if playing the undergraduate fool can be so dignified, but I left the theater wondering why the rabbis were the first religious group to raise a howl. The "grievous insult," surely, is directed primarily toward Christianity. It is true, however, that a chuckle-headed political faction called the People's Liberation Front of Judea figures prominently in the hubbub, and there may be something in that nomenclature that galls rabbinical sensibilities. In any case, a day or so later, the Roman Catholic Archdiocese of New York deplored the film as "a mockery of Christ's life." I believe it is much too incoherent to be any such thing, and thought the Catholics were wise to take a cool tone. I doubt that the film would endanger anyone's faith.

The story, to give it that name, concerns one Brian, born on the day of Christ's birth and destined, quite against his will, to be hailed as a messiah and die on the cross. Brian (Graham Chapman) is more mobile than bright; he is dominated by a mother who expresses perpetual discontent in a rasping falsetto and who is clearly in need of a shave. I kept hoping that this crone was Dudley Moore, late of *Beyond the Fringe*, in drag; that might have promised some wit, but no such luck. We are shown the stoning of malefactors and gladiatorial combats (both badly mismanaged), while Brian, trying to extricate himself from dangers caused by his own ineptitude, gradually attracts a following that discovers miracles in his tactics of evasion and divine wisdom in his panic-inspired utterances. Naturally, Brian comes to the attention of the Roman occupiers, the more exalted of whom are depicted as gentlemen who lisp and show an unusual interest in elegant fabrics. Their lisping entertains the rabble of Jerusalem and, by extension, is intended to amuse us; it goes on for quite a time.

That is one basis of my complaint against the Monty Python crowd—they have developed a few routines which they think irresistibly risible and they hammer away on them at length. A basic ploy is to inject into some evocation of a hallowed moment in history or legend a fragment of anachronistic cockney cynicism. Cockneys are notorious for pricking the balloons of cant and pomposity, and the first few instances of this nasal incredulity, speaking out eons before its time, can surprise anyone into laughter. But it soon becomes predictable—and tiresome; what is being said, after all, is not that witty. And much the same goes for the Monty Python exploitation of homosexuality, with the additional criticism that it is ignorant and inherently objectionable. Some homosexuals may flounce and have trouble with the letters "r" and "s," but these are hardly group characteristics, and, if they were, the appeal to bigotry is not much fun. Finally, fantasy ought to be consistent within its context; Monty Python should order its plots so that, for example, when its hero topples from the highest tower in Jerusalem, a space ship need not be ordered up to save him in mid-plunge.

When we last see Brian, he is stretched out on a cross, surrounded by some forty other victims of the Roman will and singing a song about looking on the bright side, under the leadership of an epicene golden youth. The creators of the piece would probably insist that this figure is not intended to represent the true Christ. Perhaps not, and I won't object on religious grounds. But there are still problems of taste, to say nothing of humor.

A common practice of Hollywood—using that term to identify a state of mind—is to exploit contemporary social problems for popular entertainment. This gives the industry a name for responsibility, probably does little harm, and may offer some pleasure. A current example is *Rich Kids*, directed by

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Robert M. Young and with Trini Alvarado and Jeremy Levy as the adolescents in question. In this case the social problem is how the children of the rich urban bourgeoisie can properly learn the facts of life, including those of sex, when their parents are so neurotically undisciplined and self-concerned as to be unfit guardians for a pair of nubile goldfish. The simple and very satisfying answer is that the children, possessed of a wisdom, forbearance and sense of humor that has almost completely skipped their parents' generation, learn by eavesdropping and from each other. Since the young people in *Rich Kids* are genuinely attractive and come to no harm, the film is untaxing and even enjoyable. The settings are foolishly chic—you might say consumer oriented; the dialogue is at the level of a good TV commercial. Perhaps the best way to describe the picture is to say that it shows how people survive in boutique America. And that's an important subject—if you believe there is such a place behind the looking glass of department store windows. □

TELEVISION

PETER SOURIAN

If you found yourself in Paris on August 31, shocked by the prices and anxious to have an inexpensive evening, you might have tuned in at prime-time to France's first channel, TF1, and watched a program devoted to the philosophy of Descartes. Or, if you happened to be there September 24, you might have joined a projected 10 percent of France's sizable viewing public to watch a program concerning the mind of Freud, on the fortieth anniversary of his death. Although the French are still somewhat wary of Freud, they love anniversaries.

These prominently scheduled programs are part of a continuing series—*Des idées et des hommes*—produced by a former professor of philosophy named Denis Huisman, with the strong backing of Jean-Louis Guillaud, director general of TF1. Programs on Plato, Spinoza, Montaigne, Pascal, Malebranche, August Comte, Kierkegaard, Bergson and Camus have already been shown. Future productions will include one on Taine, and also one on Gandhi, to be seen on the thirtieth anniversary of *his* death.

When I asked Huisman recently about his thoughts on the problem of using a visual medium to elucidate the relatively abstract achievements of his philosophers, he said that he expected Gandhi to present fewer problems than Plato since Indian film studios possess more than twenty hours of footage on the man. With more difficult subjects (like Plato), he employs a variety of expressive means. One is to arrange a lively discussion before the camera about the ideas in question. "Unfortunately," he says, "philosophy does not lend itself to anecdotal treatment, so I have the task of finding images susceptible of giving life to ideas." Huisman's *Camus*, which I have seen, does indeed present a number of people discussing the thought of Camus in a lively fashion—friends and teachers from Camus's youth, Resistance cohorts, philosophy professors and young students. Although the film is interesting, it is more preoccupied with the issue of Camus's current reputation than with his work. To some extent this approach is justified because of his significance as a *figure*, but not entirely. Huisman knows he is scorned by many French intellectuals as a demagogic popularizer. He compares himself to another well-known popularizer of culture in France, Alain Decaux, who has for years been successfully presenting complex historical material on prime-time TV without any credit from French intellectuals. He goes on to say that whereas American intellectuals may have contempt for TV, they may also own a set, while a French professor simply will not have one in the house. "It's rather hard on me," he says goodnaturedly. "Naturally, I want to be well regarded by my professional colleagues. Yet in popularizing philosophy a certain sketchiness is inevitable, so I must expect to be condemned by them." With engaging pride he cites specific cases of people who've started reading Plato, Descartes and Kierkegaard as a result of watching his programs.

Denis Huisman may not have the esteem of his philosophical fellows but philosophy itself certainly has done well by him. He drives a Rolls-Royce and wears elegant suits. He has become a millionaire from his writing. One of his fifty books—which include a serious treatise on esthetics as well as an ingenious philosophical comic strip—is a philosophy text that has already sold more than three million copies in a country of some fifty million people. If the audience for his prime-time philosophers is proportionately vast by American standards, the budget for *Des idées et des hommes* is positively minuscule by those same standards. Only recently did it jump from $8,000 to $80,000.

Philosophy, in a quite specific sense, has long been an intimate part of French life. The final year of *lycée*, when not predominantly taken up with science in many cases, is the famous year of *Philo*, with half of the classroom hours devoted to metaphysics, logic, ethics and so on. Sartre, Alain, Simone Weil were not college professors but teachers of *Philo*, as Camus would have been if not for an early bout with tuberculosis. Seventeen-year-olds stay up all night to argue such questions as "Is Love a Means of Knowledge?" with febrile intensity before going on to become complacent, utterly unphilosophical adults.

Here are a few casual observations from a recent visitor regarding French TV generally. News programs which were primitive by American technical standards have improved significantly during the past few years. The variety

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shows may be even stupider than ours. It may be worth noting that a prime-time counterpart of our *Policewoman*, which stars sexy Angie Dickinson, is *Miss*, which stars the 70-year-old Danielle Darrieux as a cop in her 50s. A current soap opera is based on George Sand's *Les beaux messieurs de bois doré*. Finally, one is struck by the thorough coverage of the Arab world and correspondingly less coverage of Israel than is the case here.

As for France off-screen, one leaves Paris with the distinct sense of a sharply accelerating democratization of culture, epitomized by the remarkable success of Beaubourg's *Centre Pompidou* which is always crowded. Bookstores are full of customers for spanking new editions of Stendhal, Balzac, Dostoevsky and Hemingway. As Denis Huisman confirms: "My concierge really does read Camus." □

ART

LAWRENCE ALLOWAY

ART OF THE OCTOBER REVOLUTION. *Compiled and introduced by Mikhail Guerman. Harry N. Abrams. 184 color, 354 black-and-white illustrations. Unpaginated. $25.*

From *our* point of view, the study of twentieth-century Russian art begins with Camilla Gray's pioneering book, *The Russian Experiment in Art 1863-1922* (1962). Since then, various books and catalogues have taken the Western study of Soviet art to a point of refinement beyond Gray, who was naïve as an art historian. The Dane, Troels Anderson, the American, John Bowlt, and the Englishman, Stephen Bann, have done notable work, most of it based on the assumption that the only good Russian artist is an abstract Russian artist. The standard English-language view of Soviet art is that it rests on Kandinsky's and Malevich's abstract art and on constructivism. Western scholarship has taken constructivism out of the exclusive domain of Naum Gabo and Antoine Pevsner, two expatriates, and shared it with Vladimir Tatlin and Rodchenko, who stayed at home. But this is not necessarily of interest to the Russians.

A new book from Russia, *Art of the October Revolution*, gives us the Soviet view. Mikhail Guerman takes the extraordinary period of 1917-22 as his subject. His opinions on the period are far less open-minded than those of Anatoly Lunacharsky, then the People's Commissar for Education. The Commissar's policy of broad patronage included support for Tatlin's utopian project, the "Tower to the 3rd International," a key work of constructivism and a basis for later pro-technological art. Guerman cannot tolerate constructivism or the abstract paintings to which we Westerners attach so much importance. He can accept the avant-garde as a symptom of pre-Revolutionary discontent, but not as an optimistic expression of the new society, as it undoubtedly was for El Lissitzky, for example. Kandinsky, who significantly returned to his native Russia from 1916 to 1922, is represented in Guerman's book by a single black-and-white illustration, and the comment that his is the "art of a brief visitor."

BLACK AND WHITE STONE

Sima
seeds a stone
in the air
The stone rises
inside
an old man is asleep
If his eyes open
the stone explodes
whirlwind of wings and beaks
above a woman
who flows
through the whiskers of autumn
The stone falls
burning
in the eye's plaza
flowering
in the palm of your hand
speaking
hung
between your breasts
languages of water
The stone ripens
Inside
the seeds sing
They are seven
seven sisters
seven vipers
seven drops of jade
seven words
asleep
on a bed of glass
seven veins of water
in the center
of the stone
opened with a glance

Octavio Paz
(Translated from the Spanish by Eliot Weinberger)

Malevich, El Lissitzky and Rodchenko flash across these pages not as painters but as designers. Another area Guerman misrepresents is that of women artists; they are either ignored, like Natalie Goncharova, or played down, like Liubov Popova and Alexandra Exter, who are represented by a theater set and two costume designs, respectively.

The book begins with the art that followed promptly upon the decree of 1918, a personal project of Lenin's calling for Monumental Propaganda—that is, Communist replacements for czarist public sculpture. An instant pantheon of stark, over-life-sized male figures and heads materialized, made of plaster or concrete. As these ideal types were going up, graphics proliferated: posters were still an essential source of public information in Russia. Guerman appreciates these and reproduces a fascinating array, including the so-called ROSTA windows, notable for their folk imagery and biting commentary (several by Mayakovsky are reproduced in color). ROSTA is an abbreviation for the Russian Telegraph Agency, in the office windows of which the broadsheets were shown. The rapid rate of production demanded by their propagandist function leads Guerman to reflect: "How can one measure the terrible burden on the poster artists, who often had to paint a poster, one that would touch the heart, in a single day or even overnight?" I see no problem: the images are entirely stereotyped, the commentary sloganistic and the audience a known quantity. Guerman's sentimentalization of the lively works of these industrious hacks is symptomatic of his point of view.

Guerman points to 1922, the last year of his study, as "a year of great change. The invalidity of the avant-garde position had by then been clearly revealed . . . the people had not accepted their art." This was also the year in which the Association of Artists of Revolutionary Russia was formed, a pro-realist organization. Guerman describes the time as the "period of decisive evolution towards socialist realism." Although the doctrine of socialist realism actually postdates his period by ten years, it is on his mind. He imposes a Stalinist esthetic retrospectively on his period, rewriting history by cutting back on modernism and on experiments that proved barren for lack of official support. Representational art with declarative messages is the only art that he believes to be validated by the laws of historical development.

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An Interview with a 114-Year-Old Magazine

Ladies and gentlemen, we are fortunate in having with us a 114-year-old magazine—THE NATION. How do you feel, sir?

Well, I feel better than the old *Saturday Evening Post*. Ben, I used to call him—you know, after Ben Franklin. . . .

You knew the old *Post*?

Sure, I knew all the big ones. *McClure's*. Always muck, muck, muck, *Liberty*. Nice fellow, *Liberty*. "This article will take you 3 minutes, 45 seconds to read," he'd say, and we'd both laugh.

How about the newer magazines? Do you know them?

Oh sure. I remember *Politicks*. Poor fellow, died young. And *Viva*—never could make up his/her mind. Then there was *New Times*—he's gone too. Had a weak heart—took up *Running*. One thing I can't stand is this new trend to celebrity journalism—all those personality articles.

What's the matter, don't you like people?

No, I don't like *People*.

Some of those old magazines have been revived—*Life*, *Look*, even *The Saturday Evening Post*.

Yeah, they went to Switzerland and had those operations. They're nice—cute, but not the same.

To what do you attribute your long life?

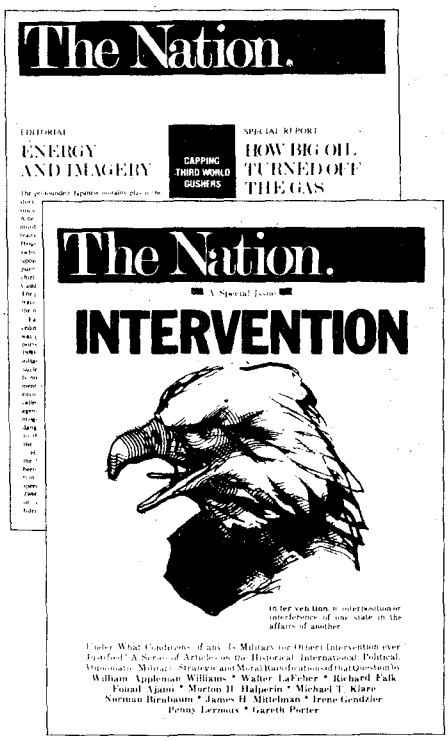
Reading. Exercising my mind. I get a lot of good wholesome fresh opinions and nourishing non-doctrinaire radical and liberal politics. Four or five tough articles every week, plus some good hardball editorials that give my conscience a daily workout. Then I top it off with an intellectual cold shower of invigorating reviews of books, plays, art, music, dance, architecture, television, the media.

What have you learned in your 114 years?

One thing I've learned is, never trust a politician who says he'll never lie to you.

That's good advice.

Don't take my word for it. Read THE NATION and think for yourself. In fact, send in the attached coupon that my insistent publisher includes with all my interviews.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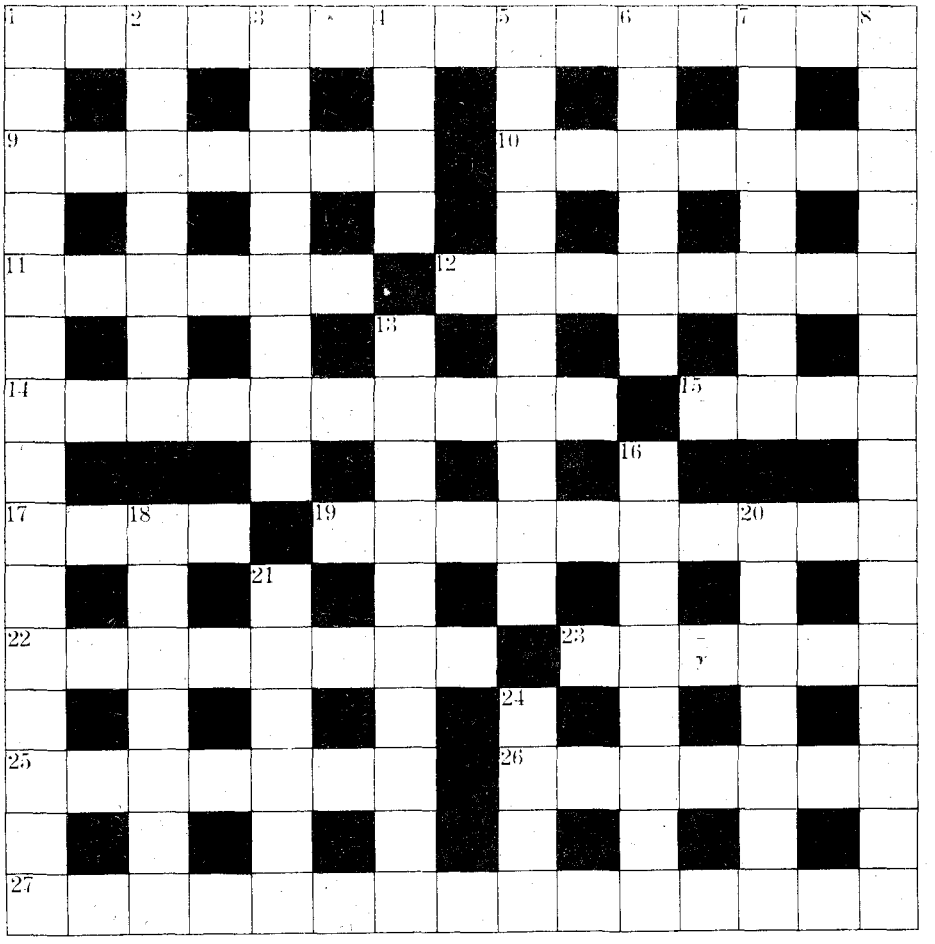
Easel paintings never have the same prompt correspondence with current events that graphics or even public sculptures do. A sculpture takes its place in the environment in a way that an easel painting, not easily visible outside a gallery, cannot. Nonetheless, Guerman attaches great value to the form, perhaps because of the density of its imagery. Easel paintings are objects that last a long time, which means that their images of events and figures are perpetuated. Industrial landscapes, changing agriculture, civil war incidents, political genre scenes and the typology of leaders—all have the authenticity of their historical origins.

Guerman's book does not give an idea of the stylistic ferment of his years, but it does anthologize much unfamiliar material. He adds here to the record of the agit-prop trains, for example. Obviously, nothing of the original cars can be expected to have survived, but Guerman reproduces designs and photographs of the decorated cars that toured the country covered with exemplary imagery. These stylized, emphatic, and absolutely legible works are akin to the community-based black and Puerto Rican murals in the United States. In the last ten years here, professional artists have revealed the desire to dissent in a range of styles from realism through abstraction. There is, however, an absolute difference between early-twentieth-century and later American artists. The Russians believed that their art would contribute to a better day and that this day was clearly marked on the calendar.

Dissenting American artists know their targets—foreign policy or the corporate state, the petrochemical industries or nuclear power plants—but they have no confidence in a coming change. Their sophisticated and accurate sense of political helplessness contrasts sharply with the naïve aplomb of the early Revolutionary artists. The future of which they were so sure, and toward which their art was oriented, turned into a totalitarian one. October art was a lie, beyond its short-term informational services, but a lie that is touching in its optimism. Guerman, despite his supersilence on abstract art and despite his officiousness about the art he does like, offers us a corrective to our attempt to shape Soviet art to fit our own esthetic preferences. He reminds us of the iconography of revolution, not displaced onto stylistic innovation but embodied by figures in action. □

Crossword Puzzle No. 1790

FRANK W. LEWIS



ACROSS

1 Commonly, frankfurters in the how do Parisians eat? They're so selfish! (4,2,3,6)
9 Not very bright this clod, due possibly to being somewhat in the dark. (7)
10 Getting repeatedly in, being surrounded by humor of a sort. (7)
11 The war breaks out, providing something for the victor. (6)
12 In something under your coat, alternatively one whose strength is all about town. (One doesn't always want to get rid of his bonds.) (8)
14 Is responsible for what the detective or the coroner does, but not with a famous day of victory. (10)
15 Short but not loud—cheese it! (4)
17 It's a job to ask for it when nothing is missing. (4)
19 What suggests a swell load is just extra. (10)
22 Lamb none find fault with, supposedly an exalted one. (8)
23 Spattered glue on part of the furniture? (6)
25 What one might take on traveling, with the oil problem in this place. (7)
26 Far from perfect, engaged in a duel. (7)
27 It probably wouldn't describe the ring-straked, speckled and spotted cattle Jacob arranged for. (4,3,3,5)

DOWN

1 Turner repeatedly associated with London. (4,11)
2 "Two cigarettes in the dark" are responsible for angry looks. (7)
3 Where a rookie might find himself down to the last small item. (2,6)
4 Like Fundy, 27 at first. (4)
5 Is a train likely to be so contrived? (10)
6 Part of what you wear is entirely gotten up. (6)
7 Shine like trash under the force of gravity. (7)
8 Dance associated with the *Spectator*. (5,2,8)
13 In trouble, turn tail, as Audubon, for example. (10)
16 Commonly going fast, making a bird warble about it. (8)
18 One from Israel going around in character, if you know *Comus*. (7)
20 A few lines of poetry composed by our Dean. (7)
21 Concerning the upbringing of little brothers, take an exudation back. (6)
24 Hera in a different country—in Alaska, by the sound of it. (4)

SOLUTION TO PUZZLE NO. 1789

ACROSS: 1 and 6 Raising the roof; 10 Deposit; 11 Airless; 12 Elder statesman; 14 Resented; 15 Bireme; 16 Nieces; 22 Caught in the act; 24 Atlanta; 25 Subdued; 26 Sets; 27 New Yorkers. DOWN: Red herring; 2 Impedes; 3 Insurance agent; 4 and 18 Gets the hang of it; 5 Hearts; 7 Overawe; 8 and 23 Fast days; 9 Crossing the Bar; 13 Beatitudes; 17 Epaulet; 19 Amnesty; 20 Feature; 21 At ease.

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This is how it really was!

In 1947 there was a persistent rumor of a top level plan to start a "preventive" war against Russia. The terrible implications of such a bacterial and atomic confrontation caused United States Senator Glen Taylor to give up his "safe" Senate seat in order to run for Vice President on a peace ticket headed by Henry Wallace.

The campaign was doomed. But there are those who believe its "educational mission" caused the abandonment of the plan for the "preventive" war.

Because of his selfless action, Senator Glen Taylor was defeated for re-election. On a second attempt, he was counted out in the Democratic primary by the machine candidate, Frank Church. There were stolen ballots, forged ballots and phony vote counts.

Glen Taylor offered to drop his campaign of exposure of the crooked election if Frank Church would agree to take a lie detector test and say that he believed he had defeated Taylor honestly. He refused. This was Idaho's gift to the U.S. Senate.

Recently, declassified documents revealed that there was indeed a plan for a "preventive" war against Russia. Taylor declared: "If my crusade for peace with Wallace played some small part in silencing the war drums, then the sacrifice of my career was worthwhile."

Last year, Joseph Torchia, in a full page article about Senator Glen Taylor in the *San Francisco Chronicle* wrote: "Glen Taylor may well have been the most honest man in American politics in this century."

For these, and lots of other reasons, you owe it to yourself to read Glen Taylor's THE WAY IT WAS WITH ME. Just published, you can bet it will be ignored by major newspapers and the weekly newsmagazines.

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